. अभार अञ्चल: (अधीवा) का कार्यकर, तालु एव तेवा करतीर केलीत उत्पाद सुरकः सिंधि गेमा अगापता अगापती अक्षात्र अद्य (RPPI'ता AS CAT & CENTRAL EXCISE)



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। ग्रिमीन इस, सी एम में भवम अा⁹⁴ Fixe, CGT Bisson, 'रर केंग्रे दिन सेड (Jace Course Ring Ross <u>एल्यासेट (Hasha – 265 00)</u> Ditation No. 1951 - अन्द्रभट्टग्री,110 - Digiti *is supped*ion_ko@go.alf.com



रणिम्दर्भ साम मन्द्रीः हुम्मु सः अर्थापः कृत्यस्य सः कृत्यस्य २-वेद्राप्तिः अन्द्रभवत्यः विकासम्बद्धाः (३.१३)

। सुन बहेल म उन्हे कर NS 25000 NMU साथ VE97-75 'e...../ Hore: 264:25201X

🖬 🐘 Andrew Tradama (Antonio Appendi Mar).

BHV-EXCUS-000-APP-207-TO-208-2019

16.07.2019

भी कुमार वसीम, प्रियन्त्रश्वल्तः (अमीच्या) नाजचेत द्वारा भाषितः 🦉

Associed by Shri Ruman Santaph, Grindipal (2001) a oner (egaselut, 21725)

्यस्य माध्येकः । भाषमा का स्थितः अस्य मृत्यतः सम्राहकः **विम्वतिः उत्ताप्र मृत्यतः स्विम्वर**्ययस्य भवनेत्वप्रवन्तु

्यत्राणेयः) जन्मनगरः अभिभाषतः द्वेणः भवन्त्रितिः विश्वे पुरः अदिनम् मुस्तिन् ।

n eine seinen einen steren bezahlten bezahlte Den beste die Sternen Aller einen Reigeren Zahlten der Berten im

प्रतिसंहती अधिनेत्रादी ग्रे ताम पूर्व प्राप्त da_{stan} अधिहत्य १९ वर्ग जनव Appel Lance & Ceveoneen

Mrs. Changerideep. Steel Re. Rolling, 2001, Plet. No. 125/24785, 40106779 (analysis). Teacher: Steel Re-Rolling: Mill, 1901, No. 125/24/25, 601062, Steel Re-Rolling: Mill, 1901, No. 125/24/25, 601062, No. Re-Rolling: Mill, 1901, No. 125/24/25, 601062, Steel Re-Rolling: Mill, 1901, No. 125/24/25, 601062, No. 125/25, 601062, No. 125/24, N

çenerşeriyi bir etnişte eştirare beşletiniş şişiş termiştara alaktır. Salarıke kurati kolfa termiştir. Sana barazar alqıştırada bar veri kuratektir ağıştar. Esiy Salarıka aşşıları barazar kuratektir. Barazar azabaz Alaktara azar alqıştırada

- (२) दोका उन्हें पुरुष के उनके सुन्द्र एक इंकार्ड करीतान उन्होंगेकुक के रहे आगेन देखीय स्थाप कुल अस्टि यह पालन मिलामा के आगे कि उन्हें स्थारत पुरा सेन समितियत, पुरुष के बात कर राज्यत्वे के समिति कर होते में मिलामें हैं। अनुस्थ के जिल्हा के स्थान के दिन के अपने के अनुस्थ के निर्णत के उनके Contraction (२० २) 1944 के Cooke avelay, क इंडाक्कर के जिल्हा के कि प्रत्य के दिन
- ে বিভিন্ন কৰেছিল বিভিন্ন সময় সময় নাম প্ৰকাৰ কৰেছে কৰেছে প্ৰথম কৰিছেলে এই নিৰ্মাণ হৈ টি নিৰ্মান হৈছে নাম নিয়া () বিভিন্ন কৰেছিল বিভিন্ন নাম বিভাগী কৰিছে । আনহাতি দুজা কৰিছিল নাম বিভাগী কৰিছে ।;

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je de Martingsselikasti, Andreas Estad kristen, de Agellus Tútasti (Tattat, a, 24 Fear, Normali A sea destad Vien, la Mallin a seu agella be la constructioned appart Several

प्रभाग से के साथ के साथ प्रभाग में आप के लिए हैं कि स्थाप के प्रभाग के साथ के स्थाप के स्थाप के स्थाप के साथ क से से से सिंह के दिल्ला के साथ के सिंह करने के सिंह के साथ प्रभाग को सिंह दिनकों से प्रभाग के सिंह की स्थाप कि से स्थाप के प्रभाग के सिंह के सिंह के साथ के सुधा के से किस के सिंह के साथ की सिंह के सिंह के सिंह की स्थाप कि से स्थाप के प्रभाग के सिंह के सिंह के सिंह के सिंह के साथ के साथ के साथ के साथ की सिंह के सिंह की स्थाप कि सिंह से स्थाप के प्रभाग के सिंह के सिंह के सिंह के सिंह के साथ के साथ के साथ के साथ की सिंह के साथ के साथ के साथ कि साथ के साथ के साथ के सिंह के सिंह के सिंह के सिंह की सिंह के सिंह की सिंह के साथ की सिंह के साथ के सिंह के सिंह के सिंह के साथ के साथ के से सिंह के साथ के साथ के साथ की सिंह की सिंह की सिंह की सिंह की सिंह की सिंह कि सिंह की के साथ के साथ के साथ के से साथ के साथ के साथ की सिंह की साथ की के साथ के साथ के साथ के साथ के साथ के साथ की सिंह की सिंह की सिंह की सिंह की सिंह की साथ की साथ की साथ की साथ की के साथ के साथ की साथ की साथ के साथ की साथ की सिंह की सिंह की सिंह की सिंह की साथ की साथ की साथ की साथ की साथ की की साथ की सा साथ साथ की

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 अग्रेन्ट्रां के स्थान के साम सांग्रे के की दिन के साथ की प्रति है। 10 के प्राप्त के साथ 1995 के साथ के 10 क 10 कि 10 के 10 क 10 कि 10 के 10 क 10 कि 10 के 10 क 10 कि 10 के 10 क 10 कि 10 के 10 क 10 के 10 क 10 के 10 क 10 के 10 क 10 के 10 क 10 के 1

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पुत्र 2024) के रहन दिखा है, 2015 हों। यह भी भी भारती के प्रात्म आप आपूरा, 2025 है। 10 कुछ आदम आपूर्फ (2025), उन्होंने 2015 होता है। इस में 2016 के स्वर्थ के 2016 के 2016 होता है के समिति हैं थे 10 दिन और आपल प्राप्त के 2016 है 2016 है। उन्होंन भू रेग ने 2016 के सोर्ट्स करनोटकरा का 2016 के 2016 है। 2016 के बान राष्ट्रिय के पार्ट है के 2016 है थे थे 10 द 10 देन देन के सोर्ट्स के 2016 के 2016 की 2016 के 2016 है के समिति के नाम राष्ट्र के 2016 के 2017 के 2017 के 201 10 देन के 2016 के 2016 के 2016 के 2016 के 2016 के 2016 के 2017 के 2016 के 2016 के 2017 के 2017 के 2017 के 2017 10 देन के 2016 के 2017 के 2017 के 2017 के 2017 10 के 2017 के 2017 के 2016 के 2016 कि 2017 के 2016 के 2016 के 2017 के 2016 के 2016 के 2017 के 2017 के 2017 के 20 10 के 2017 के 2017 के 2016 के 2016 के 2017 के 2016 के 2017 के 2016 के 2016 के 2017 के 2017 के 2017 के 2017 10 के 2017 के 2017 के 2017 की 10 कि 2017 के 2016 के 2017 10 के 2017 10 के 2017 के 2017 के 2017 के 2017 के 2017 कि 2017 के 2017 10 कि 2017 के 2017 के 2017 के 2017 के 2017 कि 2017 के 2017 10 कि 2017 के 2017 10 के 2017 के 201

तिसाथ भारते होता संघर पुरु एक मेलाव अवियोध स्विकृत (पुण्क) के पूर्व स्वीमी के आयों में किसे, ता पर पुरु अस्तिकस्य (अह का असमात पर कि अस्ति, और कि अमेल स्वीमिया, 1995 की समात 19 के लोग में साथ से किसे के साथ तो तो, है की करकर से पुणक इस्टिंग के बादि बराइ स्वार स्वार अन्द्र संघ मा संघर 10 करिया तो है के आप के स्वार के आप तो तो, है की करफर स्वार इस्टिंग के बाद स्वार स्वार स्वार स्वार स्वार स्वार के साथ दिन के साथ के अधि के अपने आप के साथ के स्वार के साथ विद्यालय के बाद स्वार स्वार स्वार स्वार संघर संघ करते के स्वार के साथ के स्वार के साथ के साथ के साथ के स्वार विद्यालय के बाद स्वार स्वार स्वार स्वार स्वार स्वार के साथ साथ के स्वार के साथ आप के साथ के साथ के साथ विद्यालय के बाद स्वार स्वार स्वार स्वार के सी स्वार बुध के के साथ स्वार स्वार साथ स्वार के साथ स्वार स्वार 11:

्रों में सिम्बिट के से प्रायं के से प्रायं के प्रायं के प्रायं के स्वयं के स्वयं के स्वयं के सिम्बिट के स्वयं क 20 के के सिम्बिट के सिम्बर के दिस्तार के सिम्बर के स्वयं के स्वयं के स्वयं के स्वयं के स्वयं के सिम्बर के स्वयं कियान्यों के 2 कि विश्व के स्वयं के सिम्बर के सिम्बर के सिम्बर के स्वयं के स्वयं के स्वयं के स्वयं के सिम्बर के स्वयं कियान्य 2 कि विश्व के समय के समय के समय के समय के स्वयं के स्वयं के स्वयं के स्वयं के स्वयं के स्वयं के सिम्बर के स्वयं 2 कि विश्व के समय के समय के समय के समय के स्वयं के स्वयं के स्वयं के स्वयं के स्वयं के स्वयं के सिम्बर के स्वयं के सिम्बर के स्वयं के सिम्बर 2 कि विश्व के समय के समय के समय के स्वयं के सिंह स्वयं के स्वयं के स्वयं के स्वयं के स्वयं के सिम्बर के स्वयं के सिम्बर के स्वयं के सिम्बर के

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মাজে দি পোন বৰী সাই-জো জাইনসা। "Avrigion sophis han sy ligg comparation i plan "Avrigion sophis han sy light for the basis of a sign street and street and street a set of the street street "Avrigion street basis and the basis of a street street and street and street and street and street a basis of "Avrigion street basis and the street street street and street and street and street and street and street and st "Avrigion street basis and the street street and street and street and street and street and street and street "Avrigion street and street

атач «Чира «Улича» и правота, нарока се се се на констранската. - Во А nedición anticarte, las le lla lastar Selectari, la dia Gosygooggi, el la kaj ñesta o Apple Lond for PS. Moro A nedición anticarte, las le lla lastar Selectari, la dia Gosygooggi, el la kaj ñesta o Apple Lond for PS. Moro Anticarte, l'atamante musicarte, delettas a como respondente la sub la confectión de la Unio 1000 a under Selec Sel un las Charles de la compatibilitationa de la companya de la compatibilitation de la compatibilitatione de Sel un las Charles de la compatibilitationa de la compatibilitation de la compatibilitatione de la compatibilitatione de la compatibilitation de la compatibilitatione de Sel un las Charles de la compatibilitatione de la compatibilitation

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- ৰ ২০০২ বিশিন্ত কৰি মহে সামিতিৰ দেশবুৰ বুৰুত্ব হৈ পুৰু উদ্ধানিক মহেৰ লাগ কৰা পৰি কৰি নিৰ্বাচ লগতে বৃহ বিভিন্ন বি কালে সময় মহেৰেণি ক'বে পুৰু এই বিভিন্ন বিভিন্ন বিভিন্ন বিভিন্ন সময় বছৰ বাবে পি কৰি নিৰ্বাচ লৈবে বৃহ বিভিন্ন বিভ বিভিন্ন বুৰুত বিভিন্ন বিভিন্ন বিভিন্ন বিভিন্ন বিভাগ বিভিন্ন বিভিন্ন সময় বছৰ বিভিন্ন বিভিন্ন বিভিন্ন বিভিন্ন বিভ বিভিন্ন বিভিন্ন বিভিন্ন বিভিন্ন বিভাগ বিভাগ বিভিন্ন বিভাগ বিভাগ বিভাগ বিভাগ বিভিন্ন বিভিন্ন বিভিন্ন বিভিন্ন বিভ 111
- nth totan are an airge féar fan area franze, franze regar út ere fan i Disnael (ny. 11 102 Chaol Arige Art (n. 1916), franze regar (n. 1917), franze er ei henrigerrich is darw. I. II
- मोनोरीज उदरब के इस का लेकर के स्वतान के लिए हो। पूर्व क्रिपेट 24 अधियेवन प्रतिके दिनियर 24 कोंगे के यह भी रही है यह 210 में 210 के 10 तथा दिया स्वीतित्व में 10 के 10 फ़ल्म के साथ 200 के इस विषय की की प्रतिक का का करवान के आध कि मोने 2 कि मोने 2 1.41 ne verse and data glievani a bandar i na data parametra essire verse en imai tradicar priori e provietora olibue Ada Guide Al La Caller - Al Antonio data en data i possi dity de Martenevaria (Appenero) er char, faculta appendat adata Agus 19 aŭ las Proposi (No To Ada) 266
- प्रयोग्त प्रावेश हो का संगिद्ध स्वय प्रश्ना हुए असे की विक्रिय प्रभाव के प्राव कर दिन माली, 2001, में विक्र इस्परीयी भिलिट्रिय हुआ प्रथम में अधिक के भारत है भी की साहित्यांचे , प्रयाग्ध असेक के दिन प्राव के स्वय के साम के साम क्योंक के काम आज साहत्य प्रायत अन्त संगीत का 1999 की बाल के 1987 के प्रायति के प्रायति के स्वय के प्रायति के साम के साम के समय क जिस के प्रायति के साहत्य प्रायति के साहत्य के साहत्य के साहत्य के साहत्य के साहत के प्रायति के सीम के साम के सा irt. " (f) " / """ "Trive strongs for the metric carrace on declaration control for the declaration particle for the source of the sport "an eq. 2013 of the Control to the carry of the particulation of a particle for a position of the source of the accompanies of the termination of the COD and Under the Append Color of the location of the source of the form the Source of the particle of the COD and Under the Source of the Source of the Append Color of the source of the Append the Source of the particle of the Source of the Source of the Source of the Append Color of the Source of the Sou
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- ৰাই কেনে চেনাৰ এই প্ৰথম উপনিধাৰ সময়ি এই উপনিধ মন ৰাজুৰ বা নিয় প্ৰাক বা প্ৰবাদন প্ৰাক্ষ কৰে কৰিব প্ৰথম বিভিন্ন প্ৰাৰ্থী নিয়া কটা বুল বৰ্গৰ মুক্তি চেনাৰ্শনি এ জিলাৰ পৰা প্ৰথম এই উপনিধ টোৰ উপনিধ বা তেওঁ কৰিবে লৈগে কৰে হৈছিল প্ৰাৰ্থ নিয়া কটা কৰে আৰু চেন্দুৰ প্ৰাৰ্থনি এই বিভাগ প্ৰথম আৰু এই উপনিধ টোৰ উপনিধ বা তেওঁ কৰিবে লৈগে কৰে হৈছিল ক প্ৰাৰ্থ নিয়া কৰে মান প্ৰদান আৰু মান কৰে হৈছে বিভাগ নিয়া হৈছে বিভাগ হৈছে বিভাগ বিভাগ কৰে মান কৰে হৈছে বিভাগ ক প্ৰাৰ্থ নিয়া কৰে মান কৰে মান কৰে মান কৰে মান কৰে মান কৰে বিভাগ বিভাগ কৰে বা কি কাৰ্য কৰিবে লৈগে কৰে হৈছে বিভাগ প্ৰাৰ্থ নিয়া মান কৰে মান কৰে মান কৰে মান কৰে মান কৰে বিভাগৰা কৰে বিভাগৰা কৰে বা কি কাৰ্য কৰিবে লৈগে কৰে হৈছে মান ক কৰে কি আৰু মিন্দুৰ বিভাগ কৰে মান কৰে মান কৰে মান কৰে বিভাগৰা কৰে বিভাগৰা কৰে বিভাগ কৰে মান কৰে মান বিভাগ কৰে মান uх
- নৰ উপায়ত প্ৰাৰ্থনা একৰ ব্যক্তি বা ২০০০ জি এন্দ্ৰ ^হা ও অনুষ্ঠা হৈ পালে যোগালো কৰা কৰি বিভিন্ন বহা বিভাগিত ১৯৫০ জনৰ ৫০ আগমান বুলা হৈ এই মাই পাৰ প্ৰাৰ্থনা হ উপায় বহাৰ বিভাগি প্ৰাৰ্থনা হৈছে বিভাগিত হৈ যে বিভাগিত হৈ বিভিন্ন বিভাগে বিভাগিত কৰা হৈছে **বিভাগিত কৰা হৈছে বিভাগ** আগমান বিভিন্ন কৰি বিভাগিত সম্পৰ্য হৈ যে বিভাগিত বিভাগিত বিভাগিত বিভাগ বিভাগিত কৰা বিভাগিত কৰা হৈছে **বিভাগিত কৰা হ** আগমান বিভিন্ন কৰি বিভাগিত সম্পৰ্য হৈ যে বিভাগিত বিভাগিত বিভাগিত বিভাগিত কৰা বিভাগিত কৰা বিভাগিত কৰা হৈছে বিভাগিত কৰা হৈছে বিভাগিত বিভাগিত কৰা হৈছে বিভাগিত বিভাগিত বিভাগিত কৰা বিভাগিত বিভাগিত কৰা ব আগমান বিভাগিত কৰা বিভাগিত বিভাগিত কৰা বিভাগিত বিভাগিত বিভাগিত বিভাগিত কৰা বিভাগিত কৰা বিভাগিত কৰা বিভাগিত কৰা ব 21
- নিয়াৰ প্ৰথম উদ্ধান কৰে এই বিভাগ কৰিছিল কৰি বিভাগৰ বিভাগ বিভাগ বিভাগৰ সময়ত উদ্ধান কৰে মহাতে হয়। উদ্ধান কৰে উদ্ধান কৰে আৰু উদ্ধান কৰি বিভাগ কৰে বিভাগ বিভাগ বিভাগ বিভাগৰা বিভাগৰা বিভাগ বিভাগ বিভাগ বিভাগ বিভাগ ব মহাত্ৰীয় মহাত হয় কৰি মহাত কৰে বিভাগ বিভাগ বিভাগ বিভাগ বিভাগ বিভাগৰা বিভাগৰা বিভাগৰা বিভাগৰ বিভাগ বিভাগ বিভাগ ব Attention sector constitution of the state of the matter state of the state of the state of the state of the state Appendix constraint from the state of the state and the Revenue of the ı٢.
- . इ. स्वेग्सल प्रदेशनां में अन्त्रेल अन्त्र के मद्दिर कार्य से मुझ और प्रतिकार **अक्षणों के दिए, अनलावा जिल्लाम व्यापा**र स्वरूप् से स्वरूप में भीरेक सर्व से स et... na internet in the action of the second second second sound to the second to first opposition of the second se



:: ORDER IN APPEAL :: .

The polow monifored appeals have been filed by the Appellants (hereinofter referred to as "Appellant No.1 & Appellant No.2") as detailed in the Table below against Drder-in-Original No. 59/Exctor/Distand/2017-18 dated 28.03.2018 (hereinofter referred to as 'the impugued order') passed by the Appellant Commissioner, Central GST and Central Excise, Rhavnagar-1 Division (hereinofter referred to as 'the lower adjudicating authority') :-

SP.	Appesi No.	Appeljant No.	Nome of the Appellant
•_ ••• •• ! _1	V2/144/BVR/2018 19	Appellant No.1	M/s. Chandradeep Steel Re- Rulling Mill. Plot No. 133/34/35, I GIDC, Vartej, Bhavnagar.
2	VZ/145/BVR/2018-19	Appellanu No. 2	Shr: Pravinbhat Narottambha Rathod, Partner of M/s. Chandradeep Steel Re-Rolling Mill, Pint No. 133/34/35, GIDC, Vartoj, Rhamagar.

7. The brief facts of the rase are that Show Cause Rouke F.No. V/15-108/Dem/HQ/2013-14 dated 1.4.2014 was issued to Appellant No. I & Appellant No. 2 for clearances of the excisable goods. Clandestinely to various customers alloging as under:

- (2) Appealant No.1 had clandestimely manufactured and cleared their finished excisable goods involving Central Excise duty of Fig. 15,66,2437- to various customers without issuing the involces and without payment of Central Excise duty;
- (b) Interest should not be recovered under Section 11AA of the Act;
- (c) Panality should not be imposed upon Appellant No. 1 under Service 11AC of the Act read with Rule 25 of the Central Excise Rules, 2002 (*heuripofter referred to a* The CERT):
- (d) Central Credit annunting to Rs. 43,0657 wrongly taken and utilized by Appellant No. 1 should not be recovered under Rule 14 of Central Credit Rules, 2004 (hereitafter referred to as "the CCR") read with sub-section (1) of Section 11A of the Act along with interest under Rule 14 of the CCR road with Section 11AB of the Act.
- (e) Penalty should not be imposed upon Aspellant No. 1 under Rule 15(2) of the CCR mead with Section 11AC of the Act or wrongly availed Convationedit;
- (1) Appellant No. 2 (Partner of Appellant No. 11, concerned himself in setting, storking, keeping and removing of the excisable goods which he know and had reason to behave that the same were liable to confiscation, which has made him liable to preality under Rule 26 of the CER.

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т.,

The above 50% was acressed by the severe actualizating authority vide. 2.1 the Impugned order contribution (service on the statise puty of Rs. 15.66.2437). against Appelliant Nath Ender Großball (11) in the Central Excise Act, 1944) thereinafter referred to the state state state interest on the continued. demand under 11AA of the stat is planally of Rs. 15,66,243/- upon. Appellant No.1 under Sectors (10.411) of the Sector Also confirmed demand of wrongly taken Convationed it of the AS,697 - Under Role 14 of the CCR rood with Section 11A of the Act, along visit interctuit, loss Rule in of the CCR read with Section 11AA of the Accleptor wave importing conalty of Rs. 2 lakes under Hule. 26(1) on Appellant No. 2.

Being aggneved with the strenghold teller, Appellant No. 1 & Appellant. 3. No. 2 have preferred present device's, $is 2 + v^2 \tau$, en the following groups: :

Appellant No. 3 :-

The Smoughed order is the speaktric and non-reasoned in as much as the CE. adjudicating authority has put or all dealers in the pleas made in written reply. by the appedant non-the jodiscents related to and relied upon also been completely ignored; that the advanceting authority had not recorded any finding. on the arguments mixed and issue specify deals with the pleas of the appellant; that the adjudicating authority das shows uppic at indiscipline in not abiding by the various judicial pronouncements relied yoan by the appellant in support of their submissions; that appeliant reflerate decipleas made by them in their reply. to SCN before the lower adjusticiating waterpricy.

The charges of clandestrike removal two serious charges and cannot be iiil established on the basis of some registers to proverified nature; that apart from the registers of the transporters there is no other evidence on record to establish claudestine autivities of the aspecient; that charges of claudestine removal are spripes in nature and cannol be established on the basis of some diarles; that average of weight bet trip of truck which could have been loaded. for delivery taken is a presimption: they quantification of central excise duty. confirmed on the basis of Jup /hooking registers is wrong and not on the basis. of evidence; and they relied on the toxycrity order of the Tribunal in the case. of M/s. Tetwal Syestatt Industries reprinted in 2007 (216) E.L.I. 310 (Tri.-Abaid.) which was confirmed by Huilible Gujarat High Court when the appeal. (filed by Revenue stand reflected as reported in 2009 (234) E.L.T. 242 (Gut) .

| i | The diary/natebook suited from Sturi Bharat Sheth, broken during the search in third party evideore; 2005 republications until provided the list of \$\$,~<u>_</u>____

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deciphered large number of proceed entries are names appearing the proceed diaries/ notebooks seized from the broker; that hinker has not admitted the facts that the appellant was involved in clandestine removal of any such goods; that there had to be an evidence regarding illicit purchase of such goods by the buyers; that appellant did not received the amount indicated in private diaries as paid in cash; that there is no combonative evidence of receipt of cash by the appellant; that reposition made by different person in their statements are not relevant; nume of the transporters has conferred the goods were cleared clandestinely by Appellants; that evidence at journaser end of clandestinely cleared goods and sale promods, have not been gathered.

(iv) The penalty imposed order Section 11AC of the Act is illegal in as much as intentions about commission of any offence are to be proved which are absent in the present case and in tabsence of any evidence that exclosable goods manufactured by the appellant had in fact been cleared without proper involves by them, that no evidence was adduced in the show rause notice to establish that they had remains alleged acts or omissions deliberately or in violation of provisions of law or with intention to evade duty; that no conalty was imposable when there was no mails fide intention to reade payment of duty and thus they are is not liable for penalty linear Section 11AC (1) (c) of the Act; that appellant relied upon the Hourble Supreme Court's decision in the case of Amba Lail reported as 1983 ELT 13Z1 (SC) to say that one of proof is on investigation and section 106 of the Evidence Act does not shift the purden of proof proof from DGCF to the appellant;

(v) Regarding denial of Cenvat credit of Rs. 43.0657- Appeilant No. 1 contended that Cenvat credit cannot be denied where the assessee has properly accounted receipt and consumption of inputs and payments made against such purchase; that the adjudicating authority has not recorded any findings for denying Cenvat credit and for imposing penalty under Rule 14 of the CCR reaction 5ection 11AC of the ACL.

Appellant No. 2 :-

- ..

Appealant No. 2 contraded that the lower adjudicating authority has erred in imposing personal penalty of Rs. 2 taking under Rule 26(1) of the Rules on Irin on the grounds all the pleas raised by him has not been dealt with by the adjudicating authority; that the case taw relied upon by them has not been discussed; that treing partner of the firm he had on personal motive and therefore, imposition of personal penalty under Rule 26(1) of the Rules and relied upon can derive on the Horible (FSTA) in the case of Swem Industries reported as 2003(154)EU(417)(17); that separate penalty on firm and partner

Sec. Martines

4. Personal Hearing is one in 2002 call model Appeilant No. 1 and Appellant Nu. 2 was actended to by Sket eacher: In Ministeritya, Advucate, who meiterated the grounds of appeals and salar forst their fibere is no evidence against them except the diary of Shri Boaze? (Creib, Episod that their pastner has not given any statement admitting transcording circlescords of Shall products; that in Mew of vanous case raws, including KonPola CRESPIC's Order dated 17.7 2016 in respect of Mills, Bajrang Casting Pvt. L.S., their appeals may be allowed.

In written PH submatcher: data: > 5.2019, Appellants No. 1 & 2. 4.2 contended that the adjudicating authority has not discussed evidences relied. spon for upholding the classe of chances?(s) clearances of the excisable goods. that investigation at the constances and and Gransporters has not been carried out: that the Appeliants reflecting on Accessions of the Honfole CESTAT in the case. of 2010(261)ELT803(Tri-Allrixt), 2003(141) 2003 28(0(3-Ehe); 2007(218)ELT242 (Tri-De(); 2GD7(216) ELT257(Trl-Arm/d; R = 0004(368) ELT494(Trl-De!). The penaltyimposed under Rule 25 of Sules mad vitabilisection (nAC of the Act is illegal) instance is the intentions six a cone induct of any effecte are to be proved. which are absent in the present case as this takence of any ovidence that the excisable goods manufactured by the appointant had in fact been closured without procent involces; that no evidence was adouted in the show cause indice to establish shat they had committed the alleged acts or omissions deliberately an contumaciously with intent to avails dayment of duay; that no penalty was impossible when there was no more field fatient to evade payment of duty on their part and thus, they are not timble for penalty under: Section 11AC (1) (c) of the Act; that case laws cited by the adjuckating authority are not applicable to 2115 6356.

4.3 Despite personal hearing outlices section the Commissionerate, no reply / response received and no officien appeared for personal hearing.

<u>Findings</u>:

5. I have carefully gone through the sacks of the case, the impugned order and written as well as oral submissions rande by the Appellants, I find thet Appellants No. 1 & 2 have then populations for condonation of delay of 27 days.

- Bac 6 of 18

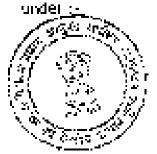
In filing appeals on the ground that consulting chartered accountant at the material time was busy with other legal matters and income Tax Notices, etc. and therefore, they could not file appeals within stipulated time. Considering that delay is within condenable period of 30 days as provided under provise to Section 35(1) of the Act, I condena delay is hiting of these appeals.

. .: . . .

6. The issue to be decided in the two appeals is whether the impugned order confirming demand along with interest and imposing penalty on the Appellants is correct, legal and proper or otherwise.

) find that Directorate General of Central Excise Intelligence in short, 7. DGCEI) conducted coordinated search at various places including offices and residence of Shri Bharat Sheth, broker and various incriminating documents were recovered under Panchasina proceedings. On being confronted with the recovered records. Shri Bharat Shoth, broker and Shii Mahishbhai H. Patel his Accountant who wrote the diaries, explained contents of the documents. recovered, selzed and acrystophing their respective statements recorded under Section 14 of the Art, that the recovered records like trip books of respective trucks, etc. (refers Para 5.1.4.3 of the Show Cause Notice) were velating to purchases of the excisable goods on behalf of their clients from validus rerolling mills that of Appellant No.1; that the records recovered contained details like date, coscuption of goods, name of buyers and sellers, rate and total amount, transportation details etc.; that they used show same of ze-rolling mails from whom goods while pairsmased. ; that "Ch " means "M/s. Chandradeep Steel Romailing Mill Varie;" (refers Para 3.31.3.2()) of the Show Cause Notice ()

7.1 Find that appellant No. 2 (Partner of Appellant No. 1) in his slatements dated 19,7.2014 and dated 25.2.2014 recorded under Section 14 of the Act, after perusing Panchnama dated 30.3.2010 drawn at the office cum residential premises of Shri Bharat Sheth, broker (refers page 55, question No. 7) as well, as statements and Amexure prepared on the basis or documents recovered from the premises of the salt broker and transporter also acculted that Appellant No. 1 had sold their excitable goods through said broker without payment of CE duty and without preparing CE invoices. Appellant No. 7, portner was given full opportunity to ge through Panchnamas, statements and Amexures before recording his Statements. I find that Appellant No. 2 deposed in his statement dated 19.2.2014 indicates Para 4.2.1 of the Show Cause Notice 1 as



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AND 7. There gety see proclamatic desce 30.05 (Community) a configuration estimation of Shri Rizra: Sheda, alongwid: the antomosely to the west penchaana and put my pated signature thereon in taken of luving a spirite way of

Q. No. 8. Plusse per use various statements of bial Manish Datel, Accountists and Shri Harse Shall, louker of this breaking stars shoogwall the advised concernes.

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— ··	after, Biograf Shinin
1 7 1	Sintanen, deted 25.07 16 of Suri Mudshbud Himmetal Patel. Accountant of
· •·	Shri Fukusi Saeth
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- -	Shri Dharat Sheth
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ō.	: A si Bharat Sheli.
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12	Statement dated 27.67.20 g/ Sini Bhazai Mashrahaal Sheih, Broker of Husvinger
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Presse read and independent the preside monoioned in the electronic and put your colled signations in lokes: of having seen and uniterstand

A.No.2. These carefully read & indecsions the following statements alongwith his relevant puterunes of Shri Marries Potel. Assessment and Shri Dharat Sheth, broker of all preaking லகருட

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A No. 9. (have preused and compared the decays contained in said America's $\Delta \phi$ with the seited disrive and put my datal signator ether one in column of having period the same.

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Q. No. 10. Phone produce Purchase Register and Sale Register (CADS). Chardrenkep Skel R₃. Rolling KR2, Varia) for year 2008-04 and 2:09-10.

ALING, ID. 1 provings between Precises Register of MVS. (Theoryscorp Seed Re-Rolling Mill) Verei for your 2004-09 and 2009-10 wary order my signation.

(3) Novill in question No. C9, an Automated-2 showing all transaction conded our by Mrs. Classification Steel Re-Robbing Will Variet, which was proposed on the basis of the diaries of A. 7 and A-17 sourced under Parelaneau dated 30.62.2016 from attacs-cum-maideode of Shei (Lara: Shell) Place proves the same and compare the details scatpings thereof.

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QUNC.12. Such Marich Potel, accountent and Shi Bhary filesh in the various strength received during transfighter, has explained the density of the protocology content of by len, which have been mentioned in the various namely select from his premises under particulary, They have explained that the plates have disputabled to other party and investor convergencing to the trid quality was might in factor referition party.

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"11-1.4" 14500 ch (Auror) NG" 10.515

Based on the attriation given by Slei Morish Patel are Shei Bharat Sheih, Mis. Shen Centary Salp Blocking and Lin, Mol No. 1. Along closed Party weighing 10.515 MS @ Ra 14.669- to Mis. Chendraleep Steel Co-Rolling Mill, Varier and invoice is issued in the same of Viol Array Trailing, Varie, (Trades). This transaction Mis corried out at the Rets of Ro. 14,000 per Metric Ton, News compare driven by indexide and captain.

7.2 I further find that the evidences collected at the premises of Shin Bharat. Shelb, broker were corrobotated at transporters ends, who accepted to have transported the excisable goods from the premises of Appellant No. 1. The details of corrobotation at transporters' end have been discussed at Para 5.1.4.2 and Para 5.1.4.3 in the impugned Show Cause Notice issues of the

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showing the description of goods to make the large of two without actual superly of scala matikated therein the soft error mater for early of two sections are compared with the nontresponding sales involves terror inter for early of two sections are compared that the the details of both the said set of the constraints of spirit hereining units, it is observed that at some sponding sales involves terror by the cost of the original realized in the sected diarlas and the details of both the said set of the constraint of spirit hereining units, are found onlikes with somesponding sales involves include the sector of the boots of spirit and goods in costain cases. Further, each other, except the none of the costs of the off include by the ship-interking these distering basis of details available in the volue into both leaded by the ship-interking these, distering basis of details available in the volue into both leaded by the ship-interking these, disporting numbers have intervalence of the volue into both leaded by the ship-interking these dist built combers have intervalence of the volue into both leaded by the ship-interking these dist both the second for the order of the volue into both leaded by the ship-interking these dist both the second for the order of the volue into both so the goody note showing to have strengthed both the provide the order of the ship between the goody note showing in the fact that as both the respective domain with some of the goody the ship interval in the phony relation whether such vehicles have noted by the respective domain the source in the fact her with extended the investigation with such which concernes in the fact that as to whether yield extended the investigation with such which concernes in the fact that as to whether yield extended herein the source of the phone in both the with the source in the phony set.

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5.1.4.2 Transform to corrubcence at excellent the basilities the said buck was used for the Stangautation of strap to induction famile are used by details mentioned in CP sales involuestand by the selection of end of the two reading the termination of plates to colling mell, at per details mentioned in the setzed leaders of Anti Share thash, Statement dated 25,08,12 of Shrt Animalbhsib Bahadurainh Rane, weter of wEchology GJ AT 0849, GJ 4U 7077, GJ 4X 6969, GTEZ 1500 was approach and during the statuture remaining a, he has submitted the trip. Ixokana, expect of the tables and 1 k will #960612 +125691, GJ 3Y 8679, GJ 5Y 5574, GJ 94 2751, G3 4X 5591 and GJ 4X 6909. We assult wellable in the tip books for exception $c_{\rm c}$ gonal by the respective trucks were compared who the back manibers specificned in the respective sales myoine associaty the contactant, with breaking units with reference on the transantions shown in the records of this Basis Sheft, The comparison of such several uansartions reveals that the purchase a up a worker used in the tomsportation of service in the mit mentioned in sech involves issued ov for ship creating ands, however the tracks work read for the president of presents of the South and the South and the presents of Shift Digner Shells. The details of the same have already less discussed to issue in the gets soper of file share cause person in this regard. This careforms of yoursel to yourd doubt shoul the transactions evaluate in the seconds of Shri Rharat Shelh.

S1.6.3. In view of shows, noniccalle it responde for the states cartied on by Stri Hharat Shoh, as explained by the in the various selections of the variable selection of all variables. Scientification is trevel lies the plates were actually careasanding quality of plates chourd rethers in the variable variable were mostly in the termination the density of the science of the second rethers of the variable science of the termination of the science chourd rethers of the matrice theory of the science of the termination of the science of the termination of the science of th

7.3 I also find that documentary evidences and Statements of Partner and Accountant of Appellant No. 1. botker, transportors, angadins etc. have been discussed in elaborate matrix at Para 26 to P2/8 56 of the Implighed order and these substantial evidences fully complotiated, have not been contradicted by the Appellants at any stage and therefore, as por settled legal position, sanctive/validity of the Statemania control be undermined at this stage.

7.4 After analyzing the evidences socilable in form of (i) increminating documents recovered from the promises of Shri Bharat Sheth, broker of the excisable goods, (ii) nonuments/statements at transporters and angadias ends depicting modes operated adopted for comoval of goods clandestinety from the $\frac{1}{2}\sqrt{2}\sqrt{2}$ Bage that is

factory premises of Appellant No.1 (In) Statements dated 19.2.2014 and dated 25.2.2014 or Appellant No. 2 who admitted to have removed finished goods. Unere is no doubt that Appellant No.1 Pad indulged in clandestine removal of their finished goods. The lower adjudicating authority, at Para 51 to 67, has elaborately countered all the contentions raised by the Appellants while confirming demand of Central Excise duty and in appeal these evidences and reasoning could not be contradicted.

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7.5 Appellant No. 1 has argued that demand of duty confirmed on the basis. of atomes recovered from the pre-mises of third party like broken Shri Bliatati Shoth, without any combonative evidences, which is not content and legally. sustainable. I find that the diarkes maintained by Shri Bharat Sheth have recorded light las well as flitch transactions of Appellant No. 1 and only those entries for which corresponding sale invoices were not issued by Appellant Nr. 1. have been taken into account for the purpose of permanding duty. Shell Bharati Shelli and his Accountant who wrote the diames have acmitted to have purchased goods reflected in the said Diaries from Appellant No. 1. on behalt of their huyers. Talse fine that Appellant No. 2, in his Statements has admitted the correctness of Annexures prepared on the basis of said Dianies/ private records. and the transactions reflected in the said private records were rurther. corrobusated by the statements of the transporters and angadias, who have accepted to have transported those goods from the premises of Appeliant No. 1. and delivered to the respective buyers and also dealt with Cash. I further find i that all links (avolved in the case, namely, Appeliant No. 2 (Partnet of Appellant) No. 1). Shri Sharat Sheth, Broker as well as transportors and acgadies have corroborated the extremes gathered during investigation and therefore, domand cannot an said to be without corrobarative evidences or is based only on think. party documents, la the instant rase, the evidences of clandestina removal haveixen asthered by the investigating officers from many planes and companiate by many statements recorded under Section 14 of the Actuand therefore. It cannot be called without any contaborative and supporting evidences. A roly upon the Order of the Honfble CESTAT in the case of Qm Prakash Agarwal reported as 20:37 (346) ELT 125 (Tri-Del), wherein it has been held that :-

¹⁰5. I note that in both the proceedings almost identical set of facts over involved. The offection was that based on evidences collected from the applicit's ide, anarcoasted ecorpt and forther manifesture of datable items by the appellant coanglet to be statistical. Admitted: the case wave only based on the material evidence conjugated from the supplier's and and also as corroborated in the resonantifier permission of the copoliter's and. The ecoept and are of the rate intervaling conjugated from the supplier's and. The ecoept and are of the rate resonantifier permission of the copoliter's and. The ecoept and are of the rate intervaling the appellants and due daty short and has also been discharged during the course of the supplicity short and has also been discharged during the course of the supplicity for appellants great emphasis on non-availability of the permission theory of decality of the supplicity of the supplicity of the permission the start of during the supplicity of the start of the supplicity of the superimeter of the start wave of decality of the supplicity and the supplicity of the permission of the start of decality of the supplicity of the supersupersupersuplicity of the suppl

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<u>present care, the griptences are as all from the summiner's star to composited and</u> n<u>ayan be dinawa Tiye pring a yawa na maaliga</u> kare been comubarana and whittend for the content of their strategies for the permits who every in-<u>charge wither experience units</u>. Seconder the Malace was brought before the persons ng tha appellana shada ing pangan kasiy ng sitering ang sagagan) aleunana aj danaabis home. However, he did not three the happen is show such produces over and the <u>weth</u> vingelism. It is stranger stat the appellant har taken a <u>ping</u> v<mark>ing the dependence</mark> <u>han ant ministran de virtails stjóg vira arg t avnørt af the fittisket gunde in virds</u> hypers. It is accordent the twee-in a virtuised - , the suppliers, which using affirmed þv ske persons in allange dannar ha brudlyði sisjár <u>leits kap dar sem af dar sjóneljam</u> <u>that the constitute maintainer work provides to fairely implicate the appeliant</u> In fact, the supply of unintervisits into introducts has been corrected by the pariner of the appellant's first, in which ribusism at is not smable for the appellant Interview the symmetry and a time particle in requirement of cross-examination. ste. Admittedby news of the pripting records or the extemptions given been <u>categories</u> for later purposed for their cathersigns. In the appreal before the Trabarati the agricultur is making a telepted covering that the softeness by the partner of the <u>appellantityn is net voluenzaj.</u> Ymaes oan iner wited open by ike appellant an not of any support in the presset care. In the cases involving unaccounted normalizations. The evidence of excitences are no be symplectaned for evide bedree <u>As</u> noted already, the third party's records at the rangiller's side on affirmed by the <u>person involvance and further courrestories for the succellant crainer by descented</u> <u>andy any the georged of the theor</u> is shire on ¹20 : I any posterior and recently of moure her not heen preved. In a claudenine infinitespretand element<u>y, weth stary of</u> pp<u>eration variant be assistiveed with my divine</u> the complet convidenceme of dugrounds of capest and the fluings in the tupogeed order. I find no reason to Lawfore with the fluctuage constant by the lower authority. Accordingly, the superals are disminant."

(Empliasis supplied)

Appellant No. 1 has contemporities, the Department has out bischarged 7.6 bunden of proof for attened totals to share those and that evidences regarding transportation and the buyers are non-evisionit. I have already discussed in Paras supro that the Department has adduced sufficient evidences in the form of Incrimination documents recovered from the premises of Shin Bharat Shath. Broket which contained details as gouds purchased/sold by him on behalf of mein clients from Appellant No. 1, withour Jepthal Excise Invoices and without payment of Central Excise Gury. I find 1453 Appellant No. 2 in his Statements affirmed the correctness of Americans prepared on the basis of livese said. Diaries/ univate records recoverant fram the previous of brokers and those evidences were further corraisurated in the form of statements of itransportors, who admitted that they had transported the impugned goods from live premises of Appellant No.1. Falsa find tizzt cone of the confessional Statements has comretracted so far. Considering substantial evidences in the form of documentary and oral evidences on record, if also of the considered view that the Department. has discharged its burden of proof establishing clandentice removal of goods by Appellant No.1. I find that the lower adjudicating authority has discussed evidences in the Show Cause Notice, by way of comploration of statements of various angabias, about cash (responsions cha), took prace along with clandesting

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clearances of the excisable goods by Appellant No.1. In such cases of clandestine removal, the Department is not required to prove the evasion with mathematical precision. Wy views are supported by the order passed by the How bie Tribunal in the case of ALN, Guha & CO, reported in 1996 (86) E.E.T. 333 [Trill). Wherein it has been held that,

"In all such above of childeothic remarks, it is not possible for the Department to prove the same with mathematical precision. The Department is decord to have discharged link burden if they place to much of endence which, ground likes, shows that there was a clarification remarks if such wideoux is previously by the Department. Then the court shifts on to ske Appellants to group that there was no classified to remark

7.7 The Hon'ble CESTAT in the case of Ramachandra Rexin Pvt Ltd. reported as 2010 (295) E.L.T. 136 (Tri, Bang.) has held as unders-

⁴⁴7.7 In a case of chardening with the basising suppression of production and chardening remaind, it is not expressed that such evacion has to be exhibitished by the Decertment in a mathematical precision. After all, a person habilished by chardening anothery takes sufficient pressuurion to indefine by the coldenee. The evidence studiable shall be those left of spine of the best care taken in the persons involved in cash chardening activity. In such it situation, the entire facts and directions with the cash charden by basis and a decision has to be entired involved in cash chardening or be booked into and a decision has to be entired at on the yardenick of "proporderance of probability" and not on the yardenick of "beyond reasonable doubt"."

7.8 The Hon'ble Supreme Court as reported in 2014(302) FLT A6+(SC) has unheld the above order of the CESTAT.

7.9 Falso rely on the order basked by the Honfbin CFSTAT, Ahmedabad in the case of Apurva Aluminium Corporation reported at 1996 (261) E.L.T. 515(T1. Ahmd.), wherein at Para 5.1 of the order, the Tribunal Feld that,

"Once again the ones of proving their day have accounted for all the grach produces while to the appellation and they have failed to discharge this burden. They want the department is show challemore details of grach transported or not transported. There are several decidents of Harfold faptients Court and (ligh Courts wherein it has been held that in and chardestine authrities, only the person who evolutes in such activities from all the details and it would not be possible for any lowestipning officer to uncourt all the details and it would not be possible for any lowestipning officer to uncourt all the celles and it would not be possible for mathematical posteriors for mathematics the celles of arouters'.

7.10 I find that the Statements of Appellant No. 2 (Partner of Appellant No. 1) attimuted the correctness of Annexures prepared on the basis of records recovered from the premises of Shri Bharat Sheth shewing details of goods dealt with by Appellant No.1, are inculpatory and not retracted and hence, have to be held as admissible as held in the case of M/s. Hi Tech Abrasives I to reported as 2017 (346) FU1 606 (Trill-Delle) as under:

"54. On constitutions deviation of the facts and evolutionalises as confident above. The final that the statement of Director Is the basis for the domain. The statement is incluiperstyre and is specific. The Director charty committee that the shourdness risks research concented by the officers contained details of previousness of new materials as well as character of familied goods with and

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suffect revenent of data 1967 year in fact in a second the next by the observation that mean natries in the private discussions are a tracking for two humbles in the by astassee uit which dogs source a side <u>The filling is a type closer</u>'s admitted the parts of the charm of well as clauserour dramawy <u>of yourk on even by the outries</u> in the <u>антын канкашык нарар</u> ала дар саруган күздег банкасын. Калж макк<u>акке к</u> anin <u>muh</u>in <u>an maléneta an ieu jeun bela ieu jeun é nam é apar de the cour</u>e o<u>r Be</u>rame de Components Pet. Ltd. (sugraf. The contrainer of claudering queers is required to be evenued by milliologic positive existence. Moreover, the faces presented in each industrial case and required to be marely tower, we examined independently. The <u>deve</u>rm<u>ent</u> milling case has valued open file w<u>yforgland statement of the Director</u> which is also successful by the religion of angles in the minute records. There is no averment that the statement has been taken where shows a <u>The wants or also dee</u>n <u>ant any encouver to have entered for an or a constituant of the foreign that program of adjustmentant</u>

15. In some of the foregoing of it of that the of parametrization (Appendix real error) in taking the isomethat energy is not consign and even of classicaling range of all goods. Breat theory the statement of SUE Surger (Byrneal, who is said to be the author of the provine records recordered to and been recorded, it stands admitted by Shri-Tole that, Discourse about the to the of the constants of the private substants. Consequently 1 find no reason to disallow this piece of extáncies

 M_{\star} . The extriction of elemination view that here here here give an extensionly as <math>urecall al investigation and makes in the generation. The existences areas hed by the department are not statutely showned and could have gree under and but for the interrugation. Therefore, the is a clear case of suppression of facts from the deportment and certainly the estimated period of limitation is invocable in this case. and taxate the dominal counce by hericing by serve-baying .

[Emphasis supplied]

Taiso rely on the Order passed by the Konible CESTAT in the case of M/s. 7.11 Karort Engg. Works reported vs. 2004 (1671) 1.1.1. 373 ()m. Bol.; wherein it has been held that the Statement is a substantial place of evidence, which can be used against the maker. The (6.75) is 6.5 (\times T in the case of M/s. N R Sconge P End reported as 2015 (326) (ET7 490) (0)t-Deli has also hold (hat when prependerance of protocoulty was against this Appellant, pleadings of nustatements recorded from buyers, no recent electricity consumption found, no may materia, purchase found unaccounted for and no input-output ratio. prescribed by law etc. are of no use. The Hor 'ble High Court in the case of International Cylinders Pvt Ltd- reported at 2010(255) ELT68(H.P.) held that once the department proves that something illegal had been done by the manufacturer which $pr(\pi_{i0}|facto shows that illegal activities were being carried, i$ the burden would shift to the manufacturian. It is a basic common sense that no person will maintain authentic records of the illegal activities or manufacture. thring done by it. Therefore, the Appetlant's reliance on various case laws and not applicable in light of the positive evidences available in this case as promission above and in the impashed croet.

I have also examined Order No. Art1033-11034/2015 dated 17-07-2015 of ė. the Mapible CESTAT in the case M/s. Beijtang Castings Pvt. Ltd relied upon by the Appellant No. 1, wherein it has been held that :- ${rac{1}{2}} e^{-i\omega t}$

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[Emphasis supplied]

8.1 On going through the grounds of appeals, as also the written submissions made before the lower adjudicating authority, as discussed at Para 20 of the impligated order, I find that no request for cross examination of any witness has been made by Appellant. No. 1 and therefore, the order of the Hon'ble CESTAT in the case of M/S. Bajrang Castings PvL. Etd and others supra is not applicable in the instant case.

9. In view of above, the contentions raised by the Appellants are of no help to them since the Department has addiced sufficient oral and Gotumentary corroborative evidences to demonstrate that Appellant No.1 was engaged in clancestine removal of the finished goods without preparing Central Excise invoices and without payment of Central Excise duty. 1, therefore, hold that confirmation of demand of Central Excise duty of Rs. 19,26.9737- by the lower adjudicating authority 's correct, legal and proper.

9.1 Since demand is confirmed, it is natural consequence that the continued normand on relangesting clearances of goods lis required to be paid along with interest at applicable rate under Section 11AA of the Act. 1, Cherefore, Uphoid order to pay interest on confirmed demand.

9.2 This is a cave of clandestine removal of the tinished goods as held in parasisypral and therefore, the impugned order has correctly imposed equal and mandatory cenalty of Rs. 15,66,2437- on Appellant No. 1 under Section MAC(1) of the Act. The impugned order has correctly given option of reduced panalty of 25% to Appellant No.1 as presented under Section MAC(1) of the Act. Hence, I concur with his decision on penalty of Appellant No.1.

10. Regarding confirmation of demand of wrongly taken and utilized Cenvet credit of Rs. +3.0657- under Rule 14 of the CCR read with Section 11(A) of the Act along with interest and equal penalty thereupon. I find that at Para 44 (IV) and Para 52 of the impugned order the lower adjudicating authority thas hold as under ;



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(iv) Further, M/s. Cliandradeup has received only theny involves from versions ship-braneng, mits without actual receipt of the approx described in these involves from versions ship-braneng. Azeropera CHANINEA-A(I), W-. Chaideodrop have described Convet Costif of Re. 45,000-[inclusive of Edu. Case and S&H Edu. Case] we advanted in the sold American CHANOTIA-E(2) and critical the same towards payment of Control Escise day on the Children group.

(v) It is to methical that records keyper (records Weynel Weeks conduced the Stituenetical transactions in respect of severe any-breaking units, Schling Mulls, Inductions , hence (utils, readers on Do) of nil die dealth available in me said records becords/work should , en relevant to DOS. Charactericky processing and 36.

Further, Shed Ribertet Manasatatasi Shelli 5 one of the major brokers of Movember <u>5</u>2. decorge whom, Mo. Chandesdoep had prechased prove how various ship-breaking unus of Alarge the weager and during the period from Assesser 2687 to 2009 18. Investigation continued averaged that majority of Solphinetking place were received ittacity by Mis. Cheedradeep on cuel hasis from different ship breaking units through Shir Bherri Shein, Shir Bhasat Sheffi-Ins. provided cash amount fowards, clander time a up to of plates to Mile. Chandradeep, Shri Sinow shot is the period who has given each amount to die conjustive ship breaking units, maxived non Mig. Chandrasterp elther divisity or flow yn Angelas, Shel Bharn Such is the presenwho has given with amount to the corportive induction burgers units, reserved from Mis, Chandradeep either directly or through angunius She Rearts Starin has also received breiterige in save Gem various college and anal including blis. Chasestandeep for sich dendeptine supply of platest investigation Guideet revealed that She's Blazat Story has also manegat seles involves for this country units indicates and quantity conceptualing in the repetive involves mited in fevere of such pass was inverted to the watious calling this, units peloding Wis. Chandrancep and furning he has inclinated with industrial furnish anticidenters. 15 multiples of freedolern Central areas. Surface, Slut Blanne Sneth has should remainly factured such folling mill units inducing Mis. Coundradeep to weater planet claudesonely, to manifacture finished groups out of such classicalized macroed plates and in term to their the Brished goolf clandesonely within payment of Deletz Excise duty. She Frank She's has else gives each enterior to such induction furnace massileaters system. Or theques given by them for full invalue value to the respective induction further $\sqrt{2}/\pi^2$ dusters, relativations only $+\infty^2$ provided without physical suggly of goods mentional in the suspensive sales involves taised by different ship-breaking units, hwesagatian frather recorded that the such cash consections work manly done through Angedies i.e. receipt of user summa time, robling tothe against clawlowing supply of plates end and marking cash payment, either to respective ship-preaking under or to enhavion furnate units de ders the. Shri Bine it Shath has ease meananed the accounts for the suid purposes indicating the such transmissions. He has also similarly all such transmission providental in the seized recents. Thus, he has contained timself in removing, splitty and in all and manners deals with excitable, group on which appropriate atoms of Central Papies due les nut been paid. Thus, he had to soute to finineve that such goods so removed are hable fo configentian under the provisions of Central Exclass law and yet he deale with such zoocourse using the previsions of the Central Excise Act and the Bales made Generalized. therefore, a greate that Shel Rhavat Shella, broken is also tighte to pend action under of Rele (1) of Central Encise Rules, 2002. It further appends that Shei Bhana Sheih is also define in pr action under Sub-Rule-2 of State 26 of Canits's Eveloe Rules, 2000, as he not inund to involved in shearing in making south hypricas.



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