

र्वे प्रति । शहर के (४ में स्था) का कार्योक्षय, उस्ती भवे (००० कर और केन्सीन प्रतास शुरूरा) २००१ विभाग सक्ष्मिर मध्यास १७५५ भागवशास भवा १,१२६ ८,६५ ८,५० छ। १८५ ७,४५ स. १८० छ।

हिनीय कुल जी एक की सबस्य / 211 Pleas, (-511 Shesser) The Property (Received the Ring Note.)



 $48^{\frac{1}{12}} 427 \text{ km} = 3(0.00)$

distriction (N. D. 2008) — 047,0777 Part IIII — Hinter Licensupport vajbel jorginalite and

र्यावेस्टर्ड एक १८४० <u>१.४८</u> -

214 02**7**7 71.00

9.774.77,6,8,5,3,20004

 $p_{ij} = 2 m + 2$. 🛼

239/25/BH0+-

236296 09

3,97/2506400

হালিক লাই ই লামের (১৮৪৮ জন্ম ১৮৯৮)

13.002004

Hele.

っくしゃ-EXCUS-000-APP-00<u>1- FO-</u>00<u>3-</u>2019

A CALL PROPERTY Drophy (Street etc.)

21.64.2049

जान कर्न के नारंखा

Firth off salar.

23.01.2019

लुमार करो ३ अहम अहम (श्रीष्म, सम्बद्ध प्राप्त मधिक)

Passed by a 10 km/s (Same) Sames . Fig. , ip of Commissioner Geopeansi, Bajkat

र जिल्लाक १९८५ । पुन्तर अस्मिन्न प्रणाम आयुक्त के दिन स्थाद भूगवर व स्थाप ४८ । वृद्ध व स्थाप । स्थापनीय स्थापना अस्ति विकास स्थापना स्थापना स्थापना विकास स्थापना स्थापना स्थापना स्थापना स्थापना स्थापना स्थ

Sentence of the control of tweetry (After a new Paperson Control of the paperson of the papers

Mar State There are excellenced for 112 years a well, by Langian Boston

and and in the second of the felt of the question of the Grane for range of the second of the felt second control of the reference plant. The felt second

:-

မြောင်း များသော ရေးရှိ မြောက်ရှိသည်။ မြောက်ရှိမှာ မေးမေးမှုမှာ ရှိနှင့်နေသည်။ မြောက်ရေးမေးမြောက်တွင် မေးမေးမေး ကောင်းမေးကို မေးကို သည် အမေးကို မေးမှု н

The scenario form in customer groups we Shorper that Appellable Woolmillian West, Block Miller of Landmin Max Folk. In the scenario concentration and submode $(1,1)^{1/2}$ in the scenario concentration and submode

1.1 ্ট্ৰিয়া, স্থানিক প্ৰায়ে কৰা কৰিছিল কৰা ক্ষিত্ৰ কৰি নিৰ্ভাৱনাৰ ক্ষিত্ৰ কৰা কৰিছিল প্ৰকাশ কৰিছিল ক্ষেত্ৰ কৰি 150 কৰা 1905 - সংঘাৰ কৰা কৰিছিল কৰা বাংলা কৰিছিল কৰিছিল কৰা কৰিছিল। ইয়াৰ কৰিছিল সংঘাৰ কৰা কৰা বিভাগৰ কৰিছিল কৰা কৰিছিল কৰা বিভাগৰ কৰিছিল। বিভাগৰ বিভাগৰ কৰিছিল কৰিছিল কৰিছিল। ইয়াৰ কৰিছিল সংঘাৰ কৰিছিল কৰিছিল কৰিছিল কৰিছিল কৰিছিল কৰিছিল কৰিছিল। বিভাগৰ কৰিছিল কৰিছিল কৰিছিল কৰিছিল কৰিছিল

ন্তি বিভাগে প্ৰত্যুক্ত চুটা বিভাগে স্কৃতি বুৰি চুক্ত কৰি লগে এই বিভাগে হৈছে। ইয়াই কুলি কুলি ইয়াই কিয়াই কিয় 1985 চনা বিভাগে বিভাগি বিভাগে বিভাগি বিভাগি বিভাগিক বিভাগি বিভাগি বিভাগ কুলি বুলি বিভাগে বিভাগি বিল dЧ

The problem of the standard of the following continuous forms and the standard of the problem of the standard of the standard

विश्व के प्रति के प 167

And the second second second is the second s

- h
- ٠1.
- A process of the second of th .-:. The property of the property of the form of the property of the forest and the forest and the forest of the forest
- . See a collection of experimental constants with a series of the constant of the following of the property of the constant o . :
- epolitics. The logical body (fight property) is the property of a property of the property of ۳.
- ត្រីក្រុស (ក្រុស) ត្រូវ ក្រុម (ក្រុម) ក្រុម (ក្រុម) ក្រុម (ក្រុម) ក្រុម (ក្រុម) ក្រុមប្រជាពលរដ្ឋក្រុម (ក្រុម un camp of appula Expert of our stable leading control of Georgia (ក្រុម) ប្រក្រុម (ក្រុម) ក្រុមប្រជាពលរដ្ឋក្ ш.
- ्राच्या १००० व्याप्त स्थापन क्षेत्र के अधिक स्थापन स्थापन स्थापन स्थापन स्थापन स्थापन स्थापन स्थापन स्थापन स्थ अभिनेत्र क्षेत्र के प्राप्त के स्थापन स्थापन के प्राप्त के प्राप्त के स्थापन स्थापन स्थापन स्थापन स्थापन स्थापन कि पहले क्षेत्र के सामानिक स्थापन इस्तर स्थापन 130 ny for digitar of the development is be utilized interpretagnation of search by economy for this time the thirty cases of other of the Roles was the Entire form of the Cooked in the Co
- च्या क्ष्मुक स्थापन क्ष्मा क्ष्मा कर का प्राप्त सम्बद्धाः (देशो क्षिण) अर्थक समाप्त हो स्वर्थित का प्रमुख कर का का प्रमुख प्राप्त सम्बद्धाः स्वर्थकात् क्षमा क्षमा स्वर्थकात् के का प स्वर्धाः का प्राप्त के क्षमा का का प्रमुख समाप्त का प्रमुख का प्राप्त के किस्सा के किस्सा का का का का का का स् अर्थकात्र का प्रमुख का के किस्सा किस्सा किस्सा के किस्सा के का प्रमुख के का का का का का का का का समाप्त का स्व re. Adjoint.
 The Severage composite the mode and a Transplant person person to the construction of the transplant person of the product of the product of the person of the pe
- Configuration for the first of the first of the first that the first that the first of the first 1-1
- and the second of the sign of a minimage of reflection and the second of 11:
- Figure 15 and the first A_{ij} ΔT_{ij} A_{ij} $A_$:=
- र्मीका करणा है। यह उन्हें के कार्य के कार्य के स्वार्य करणा है। जिसे हात्या क्ष्मा है जुड़ के कार्य के कार्य के कार्य के कार्य के किया है। उन्हें कि कार्य के कार कार्य के क :=:
- as within a figure r with r with r of r of r and r r of ;_:1

o Carder in Appeal ;:

- 3 -

The Commissioner, Central Excise. Rajkot (hereinafter referred to as "the copartment") iffled coresent appears No. (i) V2/4/EA7/RA1/2009; (ii) V2/5/EA2/RA1/2009 and (ii) V2/6/EA2/RA1/2009 against Ordershi-Origina No. (i) 235/2008-09; (ii) 235/2008-09 and 237/2008-09 at dated 13,02,2009 (hereinafter referred to as "the Impugaed orders") respectively passed by the Assistant Commissioner, Central Excise Division, Gandhicham (hereinarter referred to as "the synctioning authority") in the matter of M/s. Gran Electronics Pv5. Limited. Survey No. 113, VI.age: Varsamedi Talukat Anjär, District: Kutch (hereinafter referred to as "the respondent").

- 2. The onef facts of the case are that the respondent was operating in the District of Kutch, evailing penefits of Notification No. 39/2001-CE deted 31.07.2001, as amended (hereinafter referred to as the said notification). The said notification was amended vide Notification No. 16/2008-CE detector 27.03.2008 and Notification No. 32/2008-CE dated 10.06.2008, which absend the method of calculation of refund by taking into consideration of duty payable on value addition undertaken in the manufacturing process, by fixing percentage of refund transping from 15% to 75% depending upon the informacility. The respondent filed claims for refund of Control Excise Subv. Education Cess and Secondary & Higher Education Cess for the months of September, 2008; October, 2008 and November, 2008 respectively. The sanctioning authority vice the impured orders sanctioned the refund draims, pertaining to Basic Excise Subty; Education Cess and Secondary & Higher Education Cess.
- 3. Aggrieved with the impligned orders, the doportment proferred these appeals. *Intervall*s, on the grounds as under:
- (0F) H 84501100); (ii) Electric Motor (when than 45W 8, 125W)(DETH 85011019/85015150) and (iii) Parts of Washing Machine (DETH 84503090) which were added/manufactured after 31,12,2005 is no admissible since the manufacture of the seld products cas not taken place period the cut off take according to Point No. 1 of Boards etter F. No. 110/21/2006 CX3 dated 10.07,2005; the respondent stated to have started production on 29,12,2005, it were that manufacture of said products cas not taken places before the cut off date; as per the Board's dat*floation bated 10.07,2008, the respondent would be eigible for the benefit of the notification bated 10.07,2008, the respondent would be eigible for the benefit of the notification for the plant and machinery used for manufacture which has remained the raine; the plant and machinery used for manufacture of the said products were never used before 31,12,2005, the cut off risk and hence these products do not accord the exemption under the said

not figations and

- (ii) Refund of Pidrowigs, we have a September 28. Higher Folkation Cess is not admissible since the partition of $p_{\rm coll}$ and $p_{\rm coll}$. Activised an Nt. 39/2001 CE decoded 31.07.2001, as amondo if $p_{\rm coll}$ and $p_{\rm coll}$.

<u>Findinas:</u>

- 5. I have corefully go for three objects which the resolution incompanied order, Appeal Memorandum filed to the deservoirs of Memorandum of Crops Objections submitted by the response of Memorandum of September 1999 where we restored sits
- (ii) wind her the league to to religious (at Vetund for greatures viz. (i) Fully Automatic Westing Maction 1070.1 (25.431.301); (ii) The Jirix Melon (other than 45W 8, 125W)(CETH \$501\10.0 3100.2100) and (iii) Parts of Wushing Machine (CETH 845U9090) manufactored with 15.1 (2205 by the plant and machineries a ready installed before A. (12701), and
- (III) whether the poster data is the plan for refund of Education Cost and Soundriary & Higher Education Cost, a rise in elementary in Notification No. 33/2001-CD dated 31.57.00% and Alamada Alamada Alamada (1991-1991).
- G. The sanctioning authority field (but the products namely (i) Fully Automatic Washing Mac the (CSTH 845**1105)) (II) Electric Motor (other than 45W & 125W) (CETH 850**107**27**50.51**1) and (iII) Parts of Washing Machine (CTTP 8450\$0\$0) added/over factured site: \$1.12.2005, were commissioned from the plant and machinery included specifie out off datertion 31.12.2005 but the commercial production of this commission after \$1.12.2005 only.
- 6.1 If find that the sald issue has itself properly discussed by the Homble CESTAT, Ahmedabad in task of Paamari Mistals and Tubes itto, reported as 2012 (276) ELT 230 (Trt. Ahmed , in which provisions of Notificetton No. 39/2001-CE has been discussed and it is not just under:

Is. After constantly considering submissions make by soin the sizes, we that that there is no aliquite about the field make the quoting in respect of either within streng streng the large actions are sizes as indicated in the size of either actions after \$1-22-05. The actions is a subspace, or a relative in respect to appropriately printing units, when her make

the investments and started topic production before 31-12-b. As such, it can be remainably concluded that the hypotetric intended to cover only those union in the reach allow, wherein the investment was complete by 31-12-05. The housest of the cost nutritionion is being continued to the projection in respect of the growth manuserured with the plant and mechanic matabase prior to the said date.

- 7. The distribut which arrays is no or whether subrequery, expension of the unit by he tailing new meanings after 31-12-05 which get covered by the sold nobification or not. Admittably the sold filter will very subsplict, other 31-12-05 of deeped from enotine while it can be recordably appeared as it the appeared have installed a second factory in the seme lectory, weeds now some installed in a separate tectory. The length of the nobification are admittedly on modificial of the epochod. As each, merely because the second wide will stand installed in the same lactory, which was earlier enjoying the assumption, would not count to great of requipition to the second take out.
- B. Even it visual from the conditions of the notifications, it is mostly mentioned that the twints of matterials would be evaluate in respect of close units which have been fully complete poor to 31-12-to and has started their production prior to the said case. There is nothing in the said oxidity-since as adjusts entirision of the said like of 31-12-05 in respect of the salesequent insertment of plant and mathematy. As rightly contended by trained 500, which the notifications are unused by referring to the legislative states. The scope of the same cannot be extended by referring to the legislative latter. Such notifications are required to independent in accordance with the words of the notification.
- 6 Even If we go by the eigenselve intent, the same becomes clear from the vanous checker and declines assert by the Covernment. The TRU letter F. No. 398/03/03-140, cated 27-20-92 additions to the Chief Commissioner of Costoms, Vadodate southing chiefs when wheel by the Chief Contribution appoints the Reviewe's once. For bester, approximation, we reproduce the destilication on cause the. 41:-

Tracing the Author	Press of 1966 Commissions Contains to a Sec. Publisher	Operate characters
I White the costs behalf of preparation to become of the propagation to become of the propagation to the cost part. In the cost part, the cost part is the cost part of the costs part of the costs part of the costs.	The effection is the public open when a transfer of the company code is the company code in the company code in the company code is the code in the co	We specie. The interplant care in themps has represented to him sentence another than a property of the sentence of computer to him a property and the enterplant than a color controlled to the enterplant to the controlled to the sentence of the s

10. Reference may be made to Circular No. 110/11/2006/CX3; (Med. 19.2-08. This reference period send crooks classifying the 1897-18 or Million:

Point No. 1: Whether the seneth of everython yould be analysis in joint cyclicity that the color starts associated on the commencement of commercial production i.e. 51-97-2005.

Commonts. There would be two situations. State to state where a unit enoughness a new product by considery fresh plant, machinary or control games after the cut off dark in own a situation, exemption would not be available to this new product. The said new conduct would be cleared on payment of duty, an applicable, and negative months would not be mathematic to decognish production of fifty appropriate from the production which are eligible for exemption.

The other situation is the one where a unit starts predicting scale products (affiliative out off date) using the part and matchinery included note the out off date and arthurt any addition to the plant and matchinery. For example, in case of practic movided products a graft may commone the production of different products similar by stanging the mounts and dies, on that case, the rolls would be cliquide for the benefit of limitation includes the plant one matchinery used for manufactors the remaining the same. In this connection, it is full territorial that for the purpose of company the religion when of plant and machinery, the relies of plant and machinery extends on the date of commencement of communical production only shell in considered."

2.1. Committedly the elemination remaining the hold latter satisfic upon the legislature hours that the beneath under the said apprication, is knowned to be restricted any to those units, which have stated commenced provinction or fielder 3: 12-95 and the special regions of a stability from plant and questionery. To the kindler official is another retter united to that on 20th each 20th elements to the Secretary Consent. Enterprise or including units, which the consent of the nonaction would not be syntation to those new transition units, which commentes commental production after 52-53.

In as much as the appellon, the fill intently medical is new vertical table mill after 12-12-05. Using the first section are any relief, which is the vertical table exemption, we are of above that the benefit of our confinction visual and the appellone of the appellone in as much as the adjust of the neutron sections of the first increase for promotion of the Korth area and to compline with I methodologic before \$1-27-65. Allowing of anomalogic in respect of missing entireline to \$1.00 per interpret of missing entireline to \$1.00 per interpret of missing of the neighbors of exemption of the neighbors.

- Q_{i} . To show of the above, then a step time $x_{i} \in \mathbb{R}^{N \times N}$
-) find that ಜಿಕ್ಕಿಂ 'ದಿಸ್ತಾರಗರು or 'estification No 39/2004-CE detect. 31.07.2001, darfications (box) 19.10.300) and dated 10.07.2008 darfied the the intention was to keep the optication of the Americ simple; that bonefit of subject, investments would give only estimated the screene, the quantum of benefit available to any unit-would also would thanging; If all the benefit of Notification No. 59/2001-05 to distant is spalicable to those new indestrial. $y_{
 m BHS}$, which gyrmnerise communical production before 21.12.2305. In other words, if a new industria: while colorisation commercial production after the 31.12.2005, then such industrial app, was is not eligible to evail exemption under the sala notification. Also, if commercial production of a persocial product had not commenced on an before 31.12.2905 , then the bandfit of the m said not fication . would not be available to such goods. It is also paritied that it any unitintroduced, a new product by installing fresh plant, machinery or capital gence. after the cyt-off date, then exemption would not be assilable to that new produce and the same would be deared up beyment of cuty, as applicating and sesonate records would be required to be maintained to distinuish production of these products from the products which were eligible for examption. These clar/fications were (assect on the Notifical on No. 39/2001-Central Facise dated). 31.07.2001 and are to be narmoniously read with the provisions of the m sadenodification. Therefore, if the product () Fully Aquomatic Washing Magnine (CETH) (ii) Electric Motor (other than 15W & 125W) (CETH) 845D1U00); 85011019/85015195) and (iii) Parts of Washing Machine (\mathcal{C}_{M} H, 84503090) were: commercially produced/manufactured, after 31.12.2005, then the seneric of the Natification, No. 39/2001-CE dated 32.07.2011, as amended, is not available on the appolant
- 6.3 In view of this above, I find force in the argument of the department that the inspondent was not digicle for refund for products namely (i) Fully Automatic Washing Machine (CETH 84501100); (ii) Electric Motor (other than 45W 8.125W) (CETH 85011019/83015190) and (iii) Parls of Washing Machine (CETH 84509050) manufactured after 31.12.2005 by use of plant and machinery invadics before 31.12.2005. Therefore, the Impugned orders sanutasing the refund for products namely (i) Fully Automatic Washing Machine (CETH 84501100); (ii) Electric Moror (other than 15W 8.125W) (CETH

85032019/85015190) and (iii) Paris of Westling Machine (CETH 84509090) are not correct and required to be set as de and i do so.

A Regarding Education Cess and Secondary & Higher Education Cess, I find that the respondent, a manufacturing unit situated in District of Kutch, availed benefit of exemption under Notification No. 39/2001-CE dated 31.37.2001, as amended. The said notification is reproduced as under

"Kutan (Gujaras) — Exempsion to invasable genes (exempt these specifies in American) and element from Gelfs in Karlo Dennies of $G_{\rm photo}$

In exercise of the powers conferred by sub-section (3) of nection E4 at the Connai Excise Act. (9.1.17) of (9.1%) years with sub-section (3) of the July High Additional Subject of Finite (Goods of Special Importance) Act, Te5v (08 of 196v) and sub-section (3) of section 3 of the Additional Entires Entire (Textiles and Textile Attitios) Act, 1977 (49 of 1978). The Central Government being satisfied that it is necessary in the public interest so to do, namely exempts the goods accepted in the First Schedule is the Central Entire Toxiff Act, 1976 (5 of 1986) other than power specified in the America appearable to this nobligation and cleared from a unit lessed in North district or Giffart from so much of the first or (the adjitional girty of excise, as the rare may be, revisible thereon under any of the unit Acts as it equivalent to the amount of duty and by the monutarities of goods, other flam the amount of duty paid by different credit under the COMMT Credit Ades, 2001 :

Provided that in the case of a unit having an original value of investment in plant and machinery. Installed in the factory bolow rupees owenry crore on the date of contributions of synthesisk purply like in that this in the enemption contributed bands what spok any for the first clearances up to an apprepare value not exceeding time the value of sum invadrances than the date of commencement of commercial execution, in the linear.

- ω . The avaragition contained in this notification show we given effect to in the following region, reposity .
- (a). The minustrature spail submit a statement of the duty part other stan the amount of duty part by university of CLIVAT Level under the CERVAT Credit Rolls, 2001, to the Assistant Commissioner or the Caputy Commissioner of Control Exclus, as the case may be, by the All day of the new month in which the duty the been so take.
- (ii) The Assertion Commissioner in Separa Differentialment of Control Piction, as the case, may say after over rentimetion, as he may offers recessery, shall refund the entired of duty path or after other than the amount of duty path by uplication of CONNY credit during the mount makes making the making making the mount makes.
- (c) If there is skely to be any delay in such shringition, the Justitant Commissioner or the Copung Controlledoner of Control Extint, as the case they be what returned the amount on provided their by the 15th day of their most mouth to the mouth modification and the configuration and adjust the amount of returned by such amount as may be uncessary to the rule expect refunds which the fit the material of the material of the configuration.
- 7.1 The education Cess was lavied vide of Sections 91 to 93 of Chapter VI of the Finance (No.2) Act, 2004, which read as under:
 - 171. Education Case (1) Without projudice to the professors of sub-section (11) of section 2. There shall be review and cale; set, in provinces with the provisions of this Chapter as surcturing for companies or the Union) a cert to be select the Education Case. It, hall the Countilises of the Countilises to provide and Reason unknowled quality such advantage.
 - (2) The Central Georgeometric map, pilos that appropriation made by Parliament by law in this benefit without such sums of stamey of the Fibracian Georgeometrical method with 40000 (11) of contion 2 and this Chapter for the numbers specified in sub-section (1), as it may consider method by
 - 4.1. Desirations. The second and definitions used to this Chapter and defined in the control point Act, 1944 (1957 WHA), the Conform Act, 1962 (52 of 1962) or Chapter V of the Improve Act, 1994 (32 of 1994), their heavy the anothery respectively assigned to them in these Acts or Chapter, as the case may be.
 - 3.) Education (1-as on envisable grands (177) The Boucation <u>Dess Jovied under security</u> 31, in the cases of genera specifical <u>in the Unit Sollecture is the Genius</u>, F<u>o</u>dice Table Act,

- <u>Supply of all (1966)</u>, noting groups, as will office a group largely with the <u>analysis of p</u>eriter (in <u>this</u> partition retermed to as <u>160</u> of a discoverage of a training group). At the color of two <u>near colors and the color of two near colors and the color of two near colors and the color of the colors of the Color of the c</u>
- (2) The Education Time on exercise is good, that some education or any order during of any beginning that on such good), for the solution of content of the 10 K (1 of 16 H) or any other law for the 1 nd being K 1977.
- (1) The growing of the Control water Anni 10 to 25 1944 and the other mate therewater improved the control of the growing the control of the form and the control of the form of the control of the form of the control of the form of the
- 7.2 The Secondary and Nights Education Common levies was sections 136 to 138 of Chapter Vinit the Finance Act, 2007, which may as under:
 - Fig. (4) covery and Higher &cursoon Geom. (3). Without projected to the province of sub-section (10) of section 2. Here shall be leaved and collected, in Accordance with the provinces of the Chapter of any Large for purposes or the Dinon, a case to be collected the Secondary and Higher Education Case, to finite the committees of the Covernment to provide and themse secondary and higher off-piece of substitutes. $\widehat{\psi}_{i,j}(x,y) = \widehat{\psi}_{i,j}(x,y) + \widehat{\psi}_{i,j}(x,y)$
 - (2) The Central Government may, after our suproposition made by Performed By law in this future, after some sums of success of the Environity and Higher Education Cassifered makes purposes (12) of section 2 and this Chapter for the purposes specified in sub-castion (1) as it may consider receiving.
 - 139. (Approximate The senior and expressions used in the Chapter and delined in the Contral Distance of 1944 (1 of 1944), the Contral Art, 1947 (57 of 1947) or Chapter Visit (by Rhyuro Art, 1974 (53 of 1944), shall name the meanings respectively assigned to them in those Are or Chapter on the ONA May IN.
 - 136. Secondary and Histor Soursition Class on exhaulte youth (1) file for which will higher Edication (24) feath under social 126, in the case or quade socialist in the mat schedule to the Central Loane Fail? Art, 1985 (5 of 1985), bring goods manifolation of production, and to a party or axide (in this central referred to as the Secondary and Higher Edication (as on exhibiting space), at the rate of one per cost, colourised on the appropriate of all outers of excess fracturing special duty of excess or any value (its of excess in excess) for the transfer of excess or entry transfer (its of excess) for excession, and Higher Reliabion Cost on example file 2) Art, 2004 (23 of 2004) and Securiorly and Higher Reliabion Cost on example goods; which are levice and coloured by the Central Government in the Highery of Figure (Organization) of Research, indeed the provisions of the Central Edication, 1991 (2 of 1991) or under any above for the time being in force.
 - (2) The Secondary and Objier Education Cess on emmedia pools shall be in addition to any above duties of make interprates on such goods, prices the Central Endoc Act, 1944 (3 of 1949) or any other has for the time being in Pince and the Frinchish Cess chargeonic under section 93 of the Phones (No. 2) Act, 2006 (23 of 2004).
 - (ii) The provisions of the Central Extrae ACL 1944 (1 of 1944) and the tribe made transmistry, including these relating to resonate and exampliant from duries and engineers of penalty shall be for as may be, apply in relation to the lawy and collection of the Secondary and expect industrian Cess on exceeding goods as they exply in relation to the lawy and order for the duries of exclusions are not goods made that the factor for the 1944 (2 of 1944) or the rules made therebythe, as the case may be."
- 7.3 Thus, the Education Cass and Secondary & Higher Education Cass were in nature of surcharge and were levted under Section 91 of the Hinance (No. 2) Act. 2004 and Section 126 of the Hinance Act, 2007 respectively as sluby of excise at the nate of 2% and 1% respectively to be calculated on the aggregate of all duties of excise, which are levied and coloridad by the Central Government. The provisions of the Act and the rules made thereunder, including those relating to refunds and exemptions from paties and imposition of penalty were made

 $\mathbf{R}_{\mathbf{p}}(\mathbf{p}_{\mathbf{p}}) = \mathbf{r}^{-1}$

. 4 -

applicable to the levy and collection of the Education Cess and Secundary & Higher Education Cost on consable goods as they apply in relation to the levy and collection of the outles of excise on such goods under the Art.

A4 — I find that Notification No. 35/2001-CE dated 31,07,2001 had granted total (100%) exemption from levy of excise cuty by way of refunc/recredit of excise duty. Education Cess and Secondary and Higher Education Cess were levied on excise duty and when the levy of excise duty itself was exempted by way of refund/recredit, then the Education Cess and Secondary and Higher Education Cess also got examples thereby. In absence of Central Excise duty, the question of levy of any surcharge or best or whichever name is called therefore would not alse. CBBC vide Letter F. No. 345/2/2004-TRI(Pt.) pated 10.08.2004 also carifica that Education Cess is part of excise duty. The relevant cordon is as under:

"Latter F. No. 345; 2/2004 TPU (Pt., dated) 0.5, 2004.

THE Undersigned is directed to state that subsequent to Burget, 2004 announcements, a number of representatives religiously they been reprised from the trade as well as from the field formations permitting to immember of Education Class on exclusive goods and on material goods. The policy which and the conflictions burners are as follows.

usque No. (2) : Whether Education Coss on exceptible goods is leviable on goods modulation on processing of Coss our classed after Happeliko of such asset

Clarification : Education Class on Exceptible goods at a new large, so similar cases, it has been mild by the Superior. Court flow if a very to not flows or like time. The goods one manufactured or produced in Tible, it cannot be fewered at the stage of removal of the said goods. Thus, Sourceton Case is not toyingle on exclastic goods manufactured prior to imposition of case but themselves in position of such case.

Tokin No. (2) : Whither group that our buly exempted from excise diagramstance duty or are described without payment of excise diagramstance duty functions above sections are described as described and fulfillment of agreeing analytically vigual by subjected by Geog.

Conficusion: I fee Squartion Case is revipologis the pate of two per cent of the parameter of all chirty of an illustrations (explosion center) follows of cases the exempter man exceed this sale areas outs out to the two and content to the content without payment of data under securities are content and an elementar under band. There is no collection of data this, so galaxies gas, whose or juvings on such managers, in this require, retter 0.0. In this require, letter 0.0. In this require, chapt 21st this, 2004 issues by Manager (Contrary may also be returned to.

Asser No. (3) i Whether goods (like alcoholo beverages) that do not fall cords the Control Pictor Toriff to subjected to lary of Education Cost on exclusive goods (as part of CVR), when they are imported into India?

Climities flam: As the Envention Gen on exclusive goods in leviable on gends specified in the Environment for the Environment Environment for the sale flam of the specified are not subjected as the sale Gens.

Issue (in. 14) : Whether dimes/beeses which either inst collected as disky of contraversions on are optionized as not by a Department after shorts be included for the purposes of calculation of Education Cess?

Charlement is the the polarization large is calculated at the appropriate autility of significant for the appropriate autility of significant for all the appropriate for the grant state of the second significant for the Department of Revenue, and each shows, which are (a) layout and collected as dubies of endoctrophents and (a) are both levier against the layout the department of Revenue should be taken into account for association between the department of the social points of the department of the social points of the second for association between the contract of the social points of the social points of the second for associated as a social points of the second for association of the second for a second for

(Emphasis supplied).

7.5 CEEC Vide Circular No. 134/3/20; 1/5T dated 08.94.2011 again clarified.

that sense Education Cess, and Secondary & Higher Education Coss were sevied and collected as particulage optimization on the Education Cess and Secondary & Higher Education Cess works is deviced as, or or, and wherever service tax is fill by virtue of exemption. The spin is less was issued in context of service fax matter but the principle was execution (principle). The Resid and hence would apply in the present case also Continued to Service (Secondary Mo. 1947)/2011/571 states (US.D4.2011) is reproduced as uncertainty.

. 41.

7.6 In view of above, Education Cossych! Swondary & Righer Education Cess where part of the Central Ergise duby rain since the control excise only with exempted by way of refund, Education Cess would also be exempted by way of Asiani. This view finds support from the judgement of the Hon'ble Support. Cuch in the rase of SRD Nutrients PV. Lic. reported as 2017 (255) St., 481 (SC), wherein it has held that.

(Emprass supplied):

- 7.7 In view of above, I had into the respondent is eligible for refund of Education Gess and Secondary & digner Education Gess.
- 8. Accordingly, I uphold the impugace orders and reject appears related to Solication. Cess and Secondary, 8. Egiper Education Cess in Proposit of the products where refund has interesty been a lowed by the sanction of authority. However, I allow appears related to reflect for products namely. (1) Hally Automatic Weshing Machine (CETH 84:011019/85015190) and (11) Parks of Weshing Mechine (CETH 84:09090), commercial production of which started after 31:12:2005 only and satisfied the impugace orders in this regard and order for recovery of the retund of the auty granted to the responses on these products.
- ९ | हिपार्टमेंट हान इन्ने की नई उपरोत्तत अफीरस का निम्दारा उपरोद्धा वर्धके से दिला पाला। है।

9. The appears Field by the Department and disposed off as above.

্ হালে। ক্রিক্টেপ্ট্রেন্ট্রান্তর্গ (ক্রমার রার্ট্রিক)
ক্রমার রার্ট্রেক্টর হালে।
ক্রমার রার্ট্রেক্টর হালে।
ক্রমার রার্ট্রেকটা

<u>By Sone, Post AD.</u>

la,

The Commissioner, 066T & Control आयुक्तत, सीलीपसटी एतं मेंद्रण एक्स उन्त, क्रज्ज Fedise, Kulish Commissionerade, क्रियाहारोट् मुश्रीसाम, Gardhidham

M/S. Gran Electronics PVs.) Unitted. में, प्राप्त कुलैक्ट्रोनिक्स प्राप्त ली. शह में, १६६ जीवी Survey No. 113, Village: Varsamedi (१५४मा) है, कातुक, संख्या, विल्ला, लख्य, Taluka: negas (१९७४)

<u> Talukz : Anjar, Dispict:</u> Ku<u>tan</u>

Copy to:

- The Chief Commissioner, CGST & Central Excise, Ahmedabad Zone, Ahmedabad for his kind Information please.
 The Assistant Commissionar, CGST & Central Excise, Division-Anjar,
- 2) The Assistant Commissioner, COST & Central Excise, Division-Anjar, Gandhidham for rurther necessary action. [3] Guant Die.
- 4) F. No. V2/5/EA2/RAJ/2009
- 5) F. No. V2/6/EA2/RA1/2009