

#### - प्रथम आनुक्त (समीरुप) का कार्याजक "क्या एवं मेला कर और केरदीय करनात ५०व%। UND THE SIGNE SPALL COMMISSIONER (A PARTIES CAT ACTIVITIES FROME

## হিলীৰ লল, স্বী কৰা বি এলখন / ১<sup>৯</sup> ৮০০০, GST Backet रेज को वी विभावीक / Rage Course Ring Road राज्यकार र रिकारिकोट । अस्ति (स्ट्री)



uele II:sa Na. 6131 - 24375626441141 Emaili: exapped ajke@ge.cit.com

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> V2DAGDH:2018-19 VERKSONDER BUT MESENGER PROPERTY

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P24434214L): 10.005 (0.00-2015-19)

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# KCH-KXCUS-000-APP-016-TO-018-7813

य देन जा निन\*+ ं

31.91,2019

कारी बरने भी काने आहे. Date of insue:

465.462.2101*9* 

Date of Union

चमार संतं भ.पथान अपुक (भगोरसा, समागिर हास गारिस)

Passer by Shri Kumar Sactush, Principal Commission or (Appeals). Rejour

वर र आपन्तर्भ पहुन्त व मुक्तरे स्वाप्युक्तरे महाभाव सामन किन्द्री संवद्धापत्र व स्वर्ध में बारवारे बन्द्र एक पेबा कर सराजीत / राज्यामार / प्रोधीधामा होता राज्यक्षीकी सार्व भूत साहर र स्थित  $\phi$ 

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- करीक्षका ल प्रतिकारी के पार एवं प्रता Name: w Julions avis Ber Especialité (Conservable) :
  - Zhid Camakin Yaday, Rallway House Ro. 5 455. Statury Magar, Sector 5, Good in Lon-Shri Latharitan Schlan Vaffat, Ranca No. 1 177, Secret-C. Pateny Magar, Conditional.

3. Ebul Vysa Bharan Reind, Ilono No. 1865, Scotlor-14. Gandhollan. கோனிகள் குடோலிச் அமே99(2) பெரிக் இரை புளியார் முன்னர் கொளியார் கொளியார். Baran i nagreeral by this செரிக்க historia. They file an apercal on the appropriate கடங்காறும். Util collecting eel are An≡ Vege,

- नी है। पूर्व के हैं के साथ के का पा कि का आदि के का शिकार के की साथ के किया करता है। के भी कि अपने की को कि कि जब कि आदि पात के किया के कि कि अपने कि कि कि अपने की कि अपने के किया कि की कि की कि Distance was 1994 on appeal fire to all >:
- ार्थक महत्त्रोहाई जुल होत्र कर्म विश्व देखा नथा श्रेष्ठ एक भाग समाग्र क्योगीय कार्याशक के दक्षी पर अस्तर्भ कर जनसम्बद्धान है किसी, नार्योग के सुक्षान

The agreemy contains Suptemby Stocks & Borrige Law Appendique Company (Mara Mark), No. 5, T.K. From M. Web. Law Committee of Alberta Mark and an internal contains of the Committee of the Commit

- IE. एरपान पोल्डोन् । असी बहुपा कर प्रोपनी के बनाया के कारी करीन नी। स्थान, करित नाम कर पार्ट ने सकता कि कि कारी के उन्हें (पोल्डा) का निवाद केरोड़ के किया के प्रोप्त का किया प्राप्त के प्रमुख्या का अन्दर की कियान किया है। असे किया कि एट पीलिस क कि पील किया के प्राप्त के प्राप्त के किया के किया कि किया के किया के किया के प्रमुख्य के सम्बद्ध के किया के कि Historian के प्रोप्त के प्राप्त के किया कि किया कि किया के किया के किया के प्रमुख्य के सम्बद्ध के सम्बद्ध के क
- बने की कि अपिटियान के सबसे भर्तिय पहल कर है किए उन्होंने हमान उनके जातन, दिया महि के भी है है। महि उन्होंने कि अ अपिटियान के अपिटियान के अपिटियान के अपिटियान के इसके के किए को उनके का स्थान के कि अपिटियान के अपिटिया 11:

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- Continues to A Continue box is A State to the Beautypean box and A State to A section of the Company of the Associated State o

Serving Share pair the State Bill of the provided the Administration of predeposed page 350 and it. At adaption with the provided the State and States and States in the Durantical shall include a provided the state of the provided the States and States in the States and Stat

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သည်။ လေရေးလို့ အမေါ်များ အမိုင္ခရာ Rause လည္လည္နက္ရွိအေၾကျပည္ ရွိေရးမွာ ကရာသည္သို႔သည့္ ၁၅ ၁၄၄ မေျပေလ လည္းေတြကေတြက ရွိေရးမွာ မေျပေလ လည္းျပည္သည္ ေရြကိုေတြက မိုင္းေရးမွာ လေရတည္ခ်ည္း ေကာက္သည္ ကြားကြေတာ ကြာရွိသည္ လည္းသည္ လူမေရး အလည္မွာကို လည္တြင္း လည္းသည္ လည္းသည္ ရွိေတြကေတြကို အျခင္းကြားသည့္ အေရြကြာမွာ လြန္ျပည္သည ကြာရွိသည္။ အမြဲရ சில் செய்து இருந்து பிறு பிறு குறைய நடிகள் பழக்க கொள்க பிறு காட்டிய நடிக்க கொள்க கொள்க கொள்க கொள்க கொள்க கொள்க கோத்தில் நடித்து பிறு பிறு பிறு நடிக்க கொள்கு காறு காறு கொள்க கொள்க கொள்க காறு கொள்க கோள்க கோள்கள்கள்கள்கள்கள் கோள்கள்கள் கோள்கள்கள் கோள்கள்கள் கோள்கள்கள் கோள்கள்கள் கோள்கள்கள்கள் கோள்கள்கள் கோள்கள் கோள்கள்கள் கோள்கள்கள் கோள்கள் கோள்கள்கள் கோள்கள் கோள்கள்கள் கோள்கள் கோள்கள்கள் கோள்கள்கள் கோள்கள் கோள்

्रेट १८५० अवस्य अस्तर विकास के प्रोचन के पान , देनामका भूता का पान दिन्दि किया १५० है । In case of 2007 90 on a maid le ballines ou , — की 11 th Manau, somatt payment at part

तानि कि ज्ञान में ज्ञानन स्टब्स के अपने के के को करी है। उन्हें कि नार पहले कि के प्रकार में के कहा तहन की ताल की नाल आवश त्यु कार कर को के का का कोटी के कि की कि में कि में कि के कि अपने की का क्षित्र की का का का की की कर ना के कि म 141 . ) is a supplied any during all constructions in the supplied of the supplied any during the supplied to be utilized interesting to the supplied to the suppl

कार के अनुस्तर के के प्रकार पात कर कार का कार का उन्हें के किया है। उन्हें के अपने अपने अपने के अ 3: The substraint agent and for make in fundame. From No. Social secures independent well described the low control of the substraint of the

pales quare एक विश्वविद्याणिक निवादक हैं (at the All of the Constitution of the Const

Bid of a configuration of the provided of th iĽ"

19 पुर है और साम मुक्ता के वैद्यार हैं। . . . . . किया 1 . इसे दिन्दे किया जोते, 2012 में विभिन्न अने क्यान्त कारण हैं हते कि उन्हें क्याने क्याने पार भी कार कर कि मिला कार है । A something the local transfer of the property of the second second transfer of the first first first on the second of the second of the second of the second s 11

ात भिनेत्र के प्रतिस्थित है। ये कि इसकि कहा में किया है है। ये कि अभिता में समझान के लिए, उसे, भी कि से देश प्रति है। इसके देशन हुए, के पार्ट के कहें हैं। है Marrie Children, suitable for linear productions (children to the production of a light appetite militation for appearance when he has supplicable scheduling to product и".

#### 22 ORDERS 32 APPUAL 12

Shri Kamshre Ramdev Yadavi, Hossa kid, Bir 53, Sotarv Pasar, Sector 5, Sandhidham (bereinafter referred to as "Apadlant hig. 1") , Sani Lalbarian Sukhan Yadav, House 80, 1177. Sector-6, Botarv Hagar, Candhidhan (bereinafter referred to as "Apadlant No. 70, bird ship Vayas (horar Rama). House No. 1215, Sector 114, Gammidhim (bervinafter referred to as "Appellant No. 3") and all collectively referred to as "Appellants midd appeals against the codors detailed to Table tollow Descendingly referred to as "the impogned arcers") passed by the Assistant Commissioner. CGST Gandhidham (Octan) Division. Candhidham (bergineful) referred to an "the lower adjudicating authority").

l Appeal No.		Grøen-in-Originat No. te bate 	Sulfanio, to Date	Périod Involved
367GDM/2018 19		19 dated		Di015-16   5     2016-25   11   20   <u>Sept. 2014</u>
38/GDM/2018-09		057050774071018- 197 - (56063 1070602016	5372014-17	· - 18:
39/CDM/ZGCF-19	Appeilant No. 3	067G5T7AC72919- 19 dated 02:05.2018	1777016417	do

- The thief facts of the case are that the Orientowith Control of Central Excise intelligence issued show on ish not been to the appellants for reservery of service tax, injuriest, less for take histogram channel one penalty under Section 70 of the Act. The impagned orders continued domains of Service Tax under Section 73(1) of the Hiramos Act, 1994 (Aussing/tax revened to as Tibe Act.), interest under Section 75 of the Act, take fee under subs TC(5) of the Service Tax Rules, 1994 read with Section 70 of the Act and also implied to only under Section 78(1) of the Act.
- 3. Being aggrieved with the impagned problem and approlants presented the present appeals stating that the lower adjudenting motionity has viringly on it uses semand under Section 73 of the Act and wrongly imposed probaby under Section 73 of the Act and wrongly imposed probaby under Section 73 of the Act.
- 3 the Appellants also filted written a demonstrate wat in the lines had below entire. Sorvice Tax; that non-payment of the vertiling and one are to find sold.

Porpet of Notice

holdship and Equidity crunch; that pard convice Toxias and when they received physicians from the retwork received; that they are paid onto a interest lightly on Service for cook each that they also post take rees of Rs. 19,000%; that there is no outstanding. Service Toxian reverse to be paid by them in these cases; that they had no intention to evade Service Tax.

5.2 The Appellants funcion submitted that the inquiry against them somed on 19.04.2016 and 5how Cause Motices were tasked to non-on-21.2.2017 whereas then say storical payment of due Survice Tax from Darbinber, 2015 (before inquiry started) and they cald antine A sound or Service Tax and interest and cato (ex-before Show Cause Rotate was sever so them as under .

Apprellant k . 1 :- :

ı			•			•
Sr.So.	Chalian !lo:-	Castian Kace	Service Tax		Fee for late; filing	Total
1_	00187	1000333010	4,22.6677-	15,006/	ָר די ריי	4,37,6757-
- <sub>2</sub> ."	00033	00/00/2070	8,03,7937-	51,4677	8.30.7/	8,62,5607-
5.	60781	10/01/2017	5,85,0997-	45,435/-	: <u>i</u> 0	6,33,5257+
4.	100585	i 1970172017	9,68,322.7-	22,343/-	1 10	5,88,6657
l <u>=</u> .	00594	11/01/2017		U	6,0007	6,000/-
5.	00469	12/01/2017	1507, 1	2,07		160/-
	Tota	<u>!:-</u>	Υυν. Ροι, ασίων   	4,34,2337-	14,800/-	25,29,975/

Appellant Ro. 2 (4)

: 5 mailor 	Civillan Nos-	(hajian data	Necvice Tax	Interest	ilfea Tot late Olina	Total
7.	00293	46/12/2015	4,16,1927	34,745/-	n i	9,57 0697-
7	on 193	05/6//2016	3,38,459/-	92.346/- <sup>9</sup>	a,830/-	3,92,580/-
. ئ	l aduasii	11/01/2017	18,74,527/-	54,7267-	0	7,86,4187
-: <u>-:</u> !.	28600	1970072047	f <sub>1</sub>	0	6,000/	7,28,1847
	l'inclas	Ξ-	26,26,268/-	1,61,317/-	14,000/-	28,04,386/-

Appellar i No. 3 :-

Sr. Uou		Challen	SOFten Tax	Interest	<u> Foa - </u>	Teta!
	No.:-	dale		!	for late   filine	
1.	09207	36/12/3015	5,79,51974	13, 3517		3,92,5507-
2.	00534	[10/ <b>08</b> /09/56]	ष भाइति (	57,9587-	8,900	= 9,57,08d7
	00735	10/21/1017	7.30,01879	36.4B07-	. 0	<del>-</del>
4	00785	1070172017	7,00.3(5)-	37,529/-	·; · · o ·	7,28,154)-
12.		10/01/2017	: ::	D i	ij <sub>y</sub> (¥)()/	6,0000-
	Total	<u> </u> :-	1.7,00,1637	1,55,460/-	14,609/-	28,70,251/-

3.3 It is that from the above laboration the Appellants had somet paying Service. Tax before initiation of summing proportings and had made to be payment of Service lax. Interest and the law law is supposed by above a supply buttle. In view of south Capta, subspicion of onto the covering payment of Service Lax do not survive.

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- 3.4 The Appellages contended that homewas no surpression of work or missioner on their part with intent to evade payment or being a lax protinger one, penalty under Section 73 of the Author to protein possible.
- 3.5 The Appellants also submitted that they does in covered under subsection (3) of Section 73 of the Appli which provides as under t-

"Where any service tax has not been levied or built or has helder short levied on short paid or enroneously rejunded, the person chargeable with the provice tax, or the person to whom yield the rejund has enroneously been made, <u>may pay the amount of sock service tax,</u> chargeable on enroneously rejunded, on the basis of the passively less expending the enrolled or on the case of the secondaried by a central factor of such service tax, and information such section (1) in respect of such service tax, and information shall not such payment in writing, who, make a factor information shall not spray any botton under sub-section (1) in respect of the amount or paid:

- 3.6 C3FC Cyrcusquiso, 137/157/2006-C34 dates 3.90.9900 has stanfied trial such cases need to be concluded united Section 70(3) (b): Timmon &c., 1997 when Section Toxicology with entopolitic paid voluntarity and remove seek to be served upon them as per Section 73(3) of the Acc.
- 3.7 The appealants retied upon the following crise loss to

_	ίij	Adneb Hicklong Werkferde Soil.	2010-26-51 0-3-KAR.
	(ii)	Motorworld and Others	2009 TIOU 418 180 KAN SE
	(:ii)	Hindustan Steel Ltd.	2000-FIGE-148-S0-CF-05
	(v)	9. B. Engineering Hd.	FARE BOUTER TESTALISM
	(v)	Amirash Enterprise	2016-TrOL-1006-CESTAT-ANDA

4. Shift Abrishek Doshi, Costrores Aprointed setterator the strends of Apricals during personal hearing and submitted that in these cases payment of be vice Tax would be made in time due to requiring problem being found by the appellance that payments of Personal has been septed by their on the success before initiation of ing my by ACC or Pensy that entire Service Tax along with entire interest was paid by their personal age of Shew Cause Modicals that late five had also been majded all. 3 dayes before 1900 or 180 on 1900 before.

 $\left| \left\{ \int_{\mathbb{R}^{N}} \left| \nabla \hat{h}_{n} (h, h) \right|^{2} \right| \leq \left| \nabla \hat{h}_{n} (h, h) \right|^{2} \leq \left| \nabla \hat{h}_{n$ 

that there is no maud, suppression of table, etc. on their parties of herce, probably under Scatter 78 of Art was not impossible upon them as hold by the nonfole SESTAT / High Counts in many cases as detailed in their written submissions.

-... Personal hearing notice was also sent to the jurisdictional Division. hazewer, no entranguested from the Department on date of personal bearing of thereafter.

### <u> 2. n. 0114 (65) - .</u>

- 5. It is now that the good to rough one hadts of the case, incoughed process, good objects of operate one outunes seek people by the appellants. The fishes to be seed one in the present appeals are as or
- i) whereing the impagned orders confirming demands, ordering payment of inceress and tale (e.g. section ection sol.
- (ii) whether optrophetras of amounts paid by the capellages, is correct or atherwise:
- (iii) whether the outline of palesty or the appellants under Section 78 of the Aut. Is correct or not.
- If find that Appellanto have contented that they have gold entire Service tax and interest and also take fee before issue of Show Cause Notices to them. But liberal was no suppression of foods on their part, with rather to evade powerent of Service (ax as they had started beyong que convice Yax and interest intellibetate summors were issued to their and thus, penalty incorses on their under Service 73 of the Act should be see associated as a payment of Service Lax was due to the according to face by show.
- e.1 Affect that Section 78 or the Accivits amended, with effect from 11.5.2615 and instructions issued by CBEC vice DOF No. 331/5/2015-TRU state: 78.62.2015 stated that a reduced popular of 15.4 of the Scivice Tax another is to be paid if Service Tax, into estimating equal to 255 of the Service Tax amount, desermined by the Cerural Dicisc officer by an order, is so be paid if the Service Tax, interest and reduced penalty equal to 255 of the Service Tax amount, desermined by the Cerural Dicisc officer by an order, is so be paid if the Service Tax, interest and reduced penalty is not existent addiction. Environgly, the impugned order have smoosed penalty equal to 1905 of Service Tax involved, which is not consect state.
- $k_0 T = 20$  each Section 786 of the act was the adored views, 14.5.2015, which are viden that even fail the partial prior to 14 5.2015, amended Section 78 of the

 $\frac{\left(\sum_{i=1}^{N} \left(\sum_{j=1}^{N} \left(\sum_{i=1}^{N} \left(\sum_{j=1}^{N} \left(\sum_{j=1}^{N$ 

And would apply and hence, the period from April to  $R_{\rm dy}$ , 2015 was simple covered under ambining Scotting 78 of the  $R_{\rm dy}$ .

. .

- The facts of the case reveal that the apprixants had obtained Service. 15% registration in September, 201; only and  $x^{\mu}$  three approximation  $x^{\mu}$ proprietary concerns and hence, Service has well provide by them on quarterly basis and they had stands in paying due Service had now. December: 2015. whereas,  $1^{4}$  summons was said to the Appellant set December: 2016 to one aspettant and in Jospany (1) is the appellant, and By that times the Appellants has alleady has engineering terrount of the Service Tax, com/s sunding interest and also large log, which are recorded as the impligned orders also. The appellamic case recorded with them. Insulated for an their books of accounts and the elementment gas soft bresh able to find our transactions not shown in their records / broke of accounts. In view of such labes, the allogaries of suppression of facts with intention reache payment of Scottle Tax lpha be substituted in a , because the appellants have this this Strynce Text is will alone with this est due. thereon and tale fee even before the department could instruce apposing two. against them by way of Summuns proceedings in Polosabot . 2015 in respect: of one approximation of January-20-7 to respect of 2 appeals has lend the entice Amuunt of Service Tax, full intropyt and 199 bits for been been amb by all three appailants by January, 2017 be one is up of Enow Cause Aditoes. to them in Sebruary, 2017. Hence, Linckhilber  $\omega$  to average of defect of payment of due Service Tax by the appellance in due time and not of suppression of facts with intonty to dyade payment of Sory on Tok-
- 6.4 CBEC also issued Circular vide 7.No. 13776672015 v.1. Abtorb (8.8.2015) after amendment of Section 78 and juverthen of Section 788 by the Aut. 388 polywork protion of which stocks as index of

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 $\frac{\int_{0}^{R_{1}} \left( \hat{p}_{1}^{(1)} \cdot \hat{p}_{1}^{(1)} \cdot \hat{p}_{2}^{(1)} \cdot \hat{p}_{1}^{(1)} \right)}{\left( -\frac{1}{2} \sum_{i=1}^{R_{1}} \left( \hat{p}_{1}^{(1)} \cdot \hat{p}_{2}^{(1)} \cdot \hat{p}_{2}^{(1)} \right) \right)} = \frac{1}{2} \left( \frac{1}{2} \sum_{i=1}^{R_{1}} \left( \hat{p}_{1}^{(1)} \cdot \hat{p}_{2}^{(1)} \cdot \hat{p}_{2}^{(1)} \right) \right) + \frac{1}{2} \left( \frac{1}{2} \sum_{i=1}^{R_{1}} \left( \hat{p}_{1}^{(1)} \cdot \hat{p}_{2}^{(1)} \cdot \hat{p}_{2}^{(1)} \right) \right) + \frac{1}{2} \left( \frac{1}{2} \sum_{i=1}^{R_{1}} \left( \hat{p}_{1}^{(1)} \cdot \hat{p}_{2}^{(1)} \cdot \hat{p}_{2}^{(1)} \right) \right) + \frac{1}{2} \left( \frac{1}{2} \sum_{i=1}^{R_{1}} \left( \hat{p}_{1}^{(1)} \cdot \hat{p}_{2}^{(1)} \cdot \hat{p}_{2}^{(1)} \right) \right) + \frac{1}{2} \left( \frac{1}{2} \sum_{i=1}^{R_{1}} \left( \hat{p}_{1}^{(1)} \cdot \hat{p}_{2}^{(1)} \cdot \hat{p}_{2}^{(1)} \right) \right) + \frac{1}{2} \left( \frac{1}{2} \sum_{i=1}^{R_{1}} \left( \hat{p}_{1}^{(1)} \cdot \hat{p}_{2}^{(1)} \cdot \hat{p}_{2}^{(1)} \right) \right) + \frac{1}{2} \left( \frac{1}{2} \sum_{i=1}^{R_{1}} \left( \hat{p}_{1}^{(1)} \cdot \hat{p}_{2}^{(1)} \cdot \hat{p}_{2}^{(1)} \right) \right) + \frac{1}{2} \left( \frac{1}{2} \sum_{i=1}^{R_{1}} \left( \hat{p}_{1}^{(1)} \cdot \hat{p}_{2}^{(1)} \cdot \hat{p}_{2}^{(1)} \right) \right) + \frac{1}{2} \left( \frac{1}{2} \sum_{i=1}^{R_{1}} \left( \hat{p}_{1}^{(1)} \cdot \hat{p}_{2}^{(1)} \cdot \hat{p}_{2}^{(1)} \right) \right) + \frac{1}{2} \left( \frac{1}{2} \sum_{i=1}^{R_{1}} \left( \hat{p}_{1}^{(1)} \cdot \hat{p}_{2}^{(1)} \cdot \hat{p}_{2}^{(1)} \right) \right) + \frac{1}{2} \left( \frac{1}{2} \sum_{i=1}^{R_{1}} \left( \hat{p}_{1}^{(1)} \cdot \hat{p}_{2}^{(1)} \cdot \hat{p}_{2}^{(1)} \right) \right) + \frac{1}{2} \left( \frac{1}{2} \sum_{i=1}^{R_{1}} \left( \hat{p}_{1}^{(1)} \cdot \hat{p}_{2}^{(1)} \cdot \hat{p}_{2}^{(1)} \right) \right) + \frac{1}{2} \left( \frac{1}{2} \sum_{i=1}^{R_{1}} \left( \hat{p}_{1}^{(1)} \cdot \hat{p}_{2}^{(1)} \cdot \hat{p}_{2}^{(1)} \right) \right) + \frac{1}{2} \left( \frac{1}{2} \sum_{i=1}^{R_{1}} \left( \hat{p}_{1}^{(1)} \cdot \hat{p}_{2}^{(1)} \cdot \hat{p}_{2}^{(1)} \right) \right) + \frac{1}{2} \left( \frac{1}{2} \sum_{i=1}^{R_{1}} \left( \hat{p}_{1}^{(1)} \cdot \hat{p}_{2}^{(1)} \cdot \hat{p}_{2}^{(1)} \right) \right) + \frac{1}{2} \left( \frac{1}{2} \sum_{i=1}^{R_{1}} \left( \hat{p}_{1}^{(1)} \cdot \hat{p}_{2}^{(1)} \cdot \hat{p}_{2}^{(1)} \right) \right) + \frac{1}{2} \left( \frac{1}{2} \sum_{i=1}^{R_{1}} \left( \frac{1}{2} \sum_{i=1}^{R_{1}} \left( \hat{p}_{1}^{(1)} \cdot \hat{p}_{2}^{(1)} \right) \right) \right) + \frac{1}{2} \left( \frac{1}{2} \sum_{i=1}^{R_{1}} \left( \frac{1}{2} \sum_{$ 

<sup>3.7</sup> If it further clarified that as not such as 7000 of 100 furthers Ant. 1994, in cases not involving found, rempression of 1000, above the tax and interest the son, on the basis of the penalty is payable and no show cause nation stall by the proportional of penalty is payable and no show cause nation stall by a penalty to provide and no show cause nation stall by a penalty to per provisions of clause (i) or provide a faction 7s. In such cases and involving found suppressions of facts, etc. If the basis penalty should be penalty to be penalty and the penalty and the proportions of the proposition of facts, etc. If the basis penalty should be personned to be confident to be considered. These two provisions have to be used (suppression of facts, etc., if the penalty penalty penalty forms, appression of facts, etc., if the assession pays the tax along with interest, oil is soften to day

of issummer of SCH or Letpine the issuance of SCM, then in cych cases properties, shall be deemed to be concluded. Legal provisions for similar classics in Central Furish are present in clause (a) of subsection (b) of the Central Excise Act, 1986.

6.5 In view collegal position, facts of these cases and classifications issued by 3.650, 9 few that no possibly is impossible on the appellants to these cases under Section 78 of the suit.

4.6 . The Henfale High Court of Anchra Pradosh in the assar of Fig. paint Busts Pv2, Ltd. reported as  $2047(7\%8\,\mathrm{Hz})47(AP)$  has held as made  $\sim$ 

- The it is true that under beginn him is of the France Act, 1994, an assessed is drawn to any travial tax, if any vice tax has not been levied of good on him near standard or short-paid or errorsodsty relateded, by more minimal, cultivities, will a missisteneet or suppression of facts or contravention of any of the provident of the Act and the Rules what the intent to enough payment of service tax.
- 12. Before Section 78 was substituted by the Finance Act, 2015, the position remained the same, except with analy differentias. But of the Hiffmentias one. Under adder the second provise to satisfication (1) of Section 78. If an assesse those to pay service tax and interest within 30 days from the clare of communication of the order of the Control Extist Officer a deviation for exact one can, the amount of parenty liable to be paid attained the provise except of 20th of such service tax. The first provise reduced the previous second costs where true and complete actails of the transactions were available in the specified records.
- 13. After the agreeoistic under the instance Agt. 1975, the penalty leviable trade: the first provide reactived at 50% and the penalty payable in case; where service for and interest was resulted within 30 days of viviles of notice, was readined to 15%.
- 14. I hand our stage of process of front, collection, within initiate commitment, the 4.3 different stage of process of front, collection, within initiate coment, impression of races or contribution of the professions of the Millian within the majority come to pages of front, collector, within this substitution, suppression of facts or contribution of the minimizer of the next first or community of sold proving dependent upon the assertion as to whether the amount of tax and field life was paid and, if we, at what point of time. We enjoy this distinction in mode, let us so back to become 73(1) section 73(1) created as follows:

"White any service tan isometrism invited or paid on has been shortrevice of short-paid or or or one being refunded, the pursue theregorals enth this service tax, or the person to whom such tag refund has erromeously been made, any pay the constant of such crimica tax, therefolds or erromeously refunded, on the basis of his own, monstainment trenest, or on the basis of his determined by a Central Excise Officer before service of nation on him under submitted (1) in respect of such service tax, and inform the Central Further Officer of ands payment in writing, who, or reselve of such information shell not serve any notice under sub-section (1) in respect of the immunity and of

Provided that the Central Excise Officer may determine the entrant of which payment of service has at an entrant or injuried service has, if any,

Significant Company of the Company o

which in his opinion has not osen poid by own person and, then, the Central Excise Officer shall proceed to micrown with amount in the micrown mechanisms that society, and the period of eighteen mappy referred to in sub-section (1) shall be counted from the case of medial of such intermution of payment."

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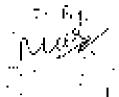
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- 15. We have already seem that the liability to pay penalty imported under Section (78(1)) arises only of an the remains of policy under the provise to Section 73(1). But, under the section (8) of Section 70, the Department offset even issue a state course tobars. In cases where the Service Tax and interest has been unit, invariantely made the discertification for the Service for sitter an even continued or on the hosis of what was ascertained by the computation light much income in notice than the varying degrees of possibly imposed under the different provises of sub-excitor (1) of Section 76.
- 16. It is true that sub-section (4) of Section 13 keeps the apprecian of who section (3) out of the purvious in cause where the Service The law and been levied, usid, short-levie I or characterist by remain a) tread, collection, wilful minoratory equal, etc. But we expect to less, the leve over not treat of cases of fraud, colinaion, within telesconding, appropriation of facts, etc., slike.
- 27. Egging this in mind, if we go torough the order in original. It could be found that the respondent-essession point the service but to the course of his. 12,42,9337. This imposit was baid even beyons this show rather online, and tool 27-4,2907, was issued. It is only in Personal 15(ii) and 15(ii) and 15(iii) that the publication points in the respondent-assessee without the publication can be proposed to the freight incorred. But, the finding (energy) in Personal Could be incorred. But, the finding (energy) in Personal Could be the Department to fell back upon sub-section (4) of better in the respondent of the finding of Section 73(3) out of the property. It so a to be assessed in the copylication of Section 73(3) out of the property. It so as to be assessed in the Copylication of Section 73(3) out of the property. It is a supplied in distribution. The appearance of the research in the Copylication. The appearance in distribution is the property.

Empire as supplier?

- 6.7 The above judgment of the Portice  $k_0dt$  is the General Discussion High court has been affirmed by the Londble Apex Coult is contrained by  $1/2 \times 10^{10} \times 10^{10}$ .
- In view of above factual and legal position, the expection conformation of semand resymmetric interest and rate for our surrout, easily and proper but there is no justification to impose penalty on the appointment from Section 12 of the Act. Hence, I have an option but to set adds the bencity introsed on the appellants in decreation 78 of the Act.
- On a Ancordingly, the impagred process are uphald for cords in this of periods with interest and payment of late focuses periods an expension and one appropriation of amounts deposited towards Service Text. Twenty and of the focus however, periodly improved on the appoints to the Section 70 or the Act is set as focus.  $\frac{\sqrt{2}(-1)}{\sqrt{2}(-1)}$

- $g_{ij}=3$ भी सुरुक्त  $g_{ij}$  हार  $g_{ij}$  भेरत भेरत भेरत कर विभावत्य उपरोचन तर्मक $\left[3\right]$  किया साता  $\left[6\right]$   $\left[$
- The appreals filed by the appellance are preposed off thiabove teams.



्रिकेश्य\_=्रिकेश्यः (कृष्णयः संदोधः) प्रधानः आयुक्ताः (३ पीक्ष्यः)

Ay R.P.J.D. To, 1. Bhri Ramshro Romdov Yadaw, Houst Roill A.456, Rotally Magaz, Roctor a, Gandhidham.

2 Non-Balconner Sukoes Modery Louise No. 1177, Section-6, Rotary Nagar, Garcontobarn.

N. Shiri Yayas Sharan Bhind. House No. 1815, Sector - 14. Janshidham.

#### <u>Carry to :</u>

- 11 Dec Principal Chief Commissioner, Coll & Centra, Excise, Animedabad Report Almiedabad for his kirki information.
- the commissioner, CST & Central Excise, Gandilidaza, Ior recessary and no.
- 3) 背接 Assistant Commissionert GST & Centre: Facese, GandorSham(Urban) Cryssion, Gandhid iain Kutch feirnecessary action. ずか Grand File: