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- ৰৰ পোৰা দেশৰ মহাৰ বৃদ্ধি হয়। এই বিশ্বমূহৰ প্ৰথম বিশ্বমূহৰ পুৰু মহাৰ মহাৰ মহাৰ মহাৰ মহাৰ প্ৰথম হৈছে বিশ্বমূহৰ বিশ্বমূহৰ বিশ্বমূহিৰ মহাৰ মহাৰ মহাৰ মহাৰ হৈছে। মহাৰ 1000-201 মহাৰ ম $\| f \|_{\infty}$ na 1977 na garanna da' ann ann an la thair ann. 1977 ann, ann ann an 1978 ann. Ta 1977 na sharanna da' ann ann ann a' la thair an 1977 ann, ann ann an 1978 ann a' la baranna 1977 ann ann an
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- रेतन होना रेनाव रहता (का प्रायत्वा वर्तितेव राज किला कार्य की होता कार्य, 1939 कार्येक कई आज कार्यक (कार्यक) क में के भी रेज के प्रायति में 10 के से कि के के कि कि कि कि कार्यक के करवा के किला के कि को कि कि कि कि कि के कि के कि कि कार्यक के कि के कि कि कि से इस कि कि कि कि कि कार्यक कि कहा थे दे :1
- ন্দ্র নামিক কাইকাট আ এ বিভাগিন আই এই উন্নেশ্বিদ্যুত উন্নয়িত সাম এই উপন্য বিভাগিন উপন্য সময় চল্লা বুলে হৈ বিভা মান্দ্র প্রতি হয় বিভাগিন আই এই উপন্য সময় হৈছে বিভাগিত বিভাগিন বিভাগিন বিভাগিন বিভাগিন হৈছে বিভাগি চল্লা হৈছে হ মান্দ্র বিভাগিন বিভাগিনে বিভাগি ۰. e prizveni se na seleka na bala da Sansa ana sabang aku se na na balan na Janan yaka bera Jawa ya yang pakewang Manana ang Banana na kasana waka na giya na

LI <u>ORDER IN APPEAL</u>IL

The present seven appears have been files by the Appellants (berein offer referred to as "Appellant No.1 to Appellant No.7) as downed in the Table below against Orbors in Orginal No. (bereinefter referred to as "the impliqued orders") snown against each appellant, "passed by the Assistant Complicators: of Carthal GST Rural/Urban Dwiston, Cardhidham (Kulch) (nationation referred to as "the lower adjudicating authorities").

95 No	Apores. No	Appelisht Ns.	Name of the Appellant (S/Shn)	Crashin- Chgual Na & Date	Passed by	Service Tsx Involved (Rs.)
1	₩27248/GDM/2017	' Apperant No.1	i Jograisingh i Hedwatsingh Sortha Yedev Nagar PSL Ganchidham Ganchidham -Kutor,	6:A0y2017- 16 dated 8:12:2217	Asst Comm. CGST Rura. Division, Candhidhsin,	123-11-095
2	VZ/285/GOV/2017	Appellant No 2	Shursen	77AC/2017 18 dated 20.12/2017	Assil Commi CGST Rural Division, Candhiáhsh	<u>35,82,436</u>
3	V2/265/GDM/2017	Acpellant Nn, 3	Ramarate Ketarate Sarsh, Slum Attra Rollway Colony, New Kandls,	29 52 <u>20</u> 47 1	Asson Commit, CGST - Rurs Division, Gandeditare	2512.251
 	V2/267/GDV/2011	Appellent No. 4	Stysg, Slum Area Rel Way Colony New Karkila	48 danad		28,55 761
-	V2/38/GDM//2018- 19	Appellont No. 5	159, Meneshwari Nagsi Gandhidham y	2/G877AC/2 216 19 datec 2.5 2018	Aesti Commi CCS1 Urean Division, Candi dhem	10,52 148
Ξ.	V2/57/3DM//018- ; 18]	Appellant No. 6	Rathod		Asstt Commi, CGST Urban Dwision, Cardhidham	27,39,097

	· · ·	VZ:40/ODM/2018- 18	жіренал Ма ?	 Jack Rossient Jack Rossient	- 	Assil Commu COST Utter Javaon	
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The brief facts of the strain we use success of good name of Vis Ŀ Manadeshwar Logieuss revealed that stalkhows the civil appendius had provided cargo handing service during FY 0142-13 to 2010-19 and collected service revification the service receiver but rac not control within white tax tab. Covernment account, Statement of the approxime were usualled interval they someted that dray have nollowed service taxings declaised as we storig with process outing F.Y. 2015. 18 G H Y, 2010-27 and also printing the foll version filling of ST-3 returns. Show Cause Notices were resuld to the applicative inclusing monotery of Science Tax under provise to Section 73(1) of the TRANCE ALC 1884 interemeted referred to as The Act is ong with interest under decomplythem? I woy imposition of conalty under Section 76 of the Actional recovery of the field toel. Section 70 of the Actiread walk Rule 7C of Service Tax Rules (18%) or is use to Me ST-9 rotums and appropriation. of service tax interest and late for the by the popularity. The lower adjudication authorities vide implugned orders cover wed Schuck sex along with interest imposed penalty equal to service text mooth section TX or the Axt and ordered to recover applicable late fee fer failure to file PT-all teached is fired and suprepriate service tag interest and late fee bald by the same lards.

Being aggrieved with the interpret ordered appellants preferred the present appeals stalling that the line operation were table ordered and bad in law and the orders have weakply be. Finned service tax along wet interest and wrongly ordered for receivery or law feel to Service Section 70 of the Advand wrongly imprived penalty under Section 79 of the Adv

4. Personal heating in the mater was plauded by Shii Abharak Doan, Granered Accountant or bosehip? Person's openliants, who reperted the grounds of appears and submitted written CH authies over to say that the figure has been committed by their common Accountant who pelimonely from them builded of pay to the Covernment account, that when they range to know (they free FIR with the Folice) and they started poying service fax before intuity was started by DGOEI and

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they save paid antire service tax (has on YUR lodged by them, Police investigated the case and also Edged² ecloharge sheet in the Count of Law; that the Account ant is soft in indicisi customythehiad (bar even after service) the worldes that they plead only non-imposition of penalty under Section 78 of the Act as trausines been committed by the Account and not by them estimate bed held by the London CESTAT is like cases of Helmang, "morphises reported as 2015 TICL 2184 CESTAT-MUM, Canesh reported as 2016-HIOL-1586-CESTAT-MUM; that they requested to set askin penalty indicate provide the time to be cased and save them from double (cased and save them from double (cased)).

FINDINGS:

5. A nave carefully gone through the fiscle of the case. Impugned orders, grounds of appeals and the submissions made during personal bearing. The issue to be decided in the present case is as to whether peneity caual to service tax involved, monocol upon the appellants under Section 78 of the Act is caneot or not.

E. I find that the appetants have not contested beroard of service tax and interest thereon and late fealfor cetayed filling of ST-3 rouths onder Section 70 of the Art, read with Rule 7C of Service Tax Rules, 1994 during personal hearing as these were out to be paid by the epreliants naving not paid bue service tax in time. Hence, the impugned orders confirming demand of service tax along with interest and for recovery of fate feel for late thing of ST-3 returns are uppeld and appropriation of articles's by the appellant bide like impugned proces is also confirmed.

Regarding imposition of penalty oncer Section 78 of the Actione appellants. £. have contorded that the fracts has in fact been committee by their common Accounts at who got money from them, but did not pay to the Government account: that they field FIR with the Police when they dame to know and they started daying service tax on their own percremoulty was started by DGCE, and now likey have solid entire service tax; that on FIR losges by them, Police here, rivest deted the case. and also filled charge sheet against their common chartered socountarium the Court. al Law, that the said Accountant is still in judicial custocythehind bar even after semany months and submitted copy of HIR field by them against the Accountant with the police. I find that the appellants in their respective statements have deposed that the said common acrountant nee collected ones les from them for pepekting very estax nto Government accountant out tax not decosited the service sax rità. Government account, and had transferred/workdrawn the amount of cheque in his remonal account and had shown the services as exercised and the emount of dheques as exempled income in their Books of Appoints and ST-3 returns, however, , the appellants have paid service tex when they cared in know this fraud and have is solaraned paying interest. I find that all these 7 supelleuts have correctly contended

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(c) I find that the Honible CESTATI Musicelly are easy of Parets's Enterprises, reported as 2015 (40) Sr 8 (2), 70, -1, etc.) the field as under.

b) The paramit Revenue's second by the procession of penalty under Section 78 and restriction of the penalty of 95–20,0004 impound by the original authority when well are need by the Commissioner (Appendit) in Rel 5004. From the ordine proceedings - processed that appellant have been making publication before the Acyclosting Authority and ostore the Commissioner (Appeals, built they and not never any intension to evade some test as they have there existing court payment to there consultant whe was assigned the job to computing the service test and depositing in the bank and may have testing to be performing to the bank and consultant has not deposited one form to the proceeding the the bank and consultant has not deposited the respondence of the later of the bank and consultant has dependent the respondence of the later of the bank and consultant dependent the respondence of the later of the bank and consultant dependent the respondence of the later of the bank and consultant dependent the respondence of the later of the bank and consultant dependent has initiated electropic of the later.

I find then the expandents in-sol claused had may had nopolated the consultant Simi Ameri Arthur, 15, memory law calculations, parament of service for and submission to reduce erv. and they were paying case to the suntsullant for the physical of convine the and the implighed rease is ordnome of investigebone concusted on the Depertment at the end of the und annullant. <u>I find diet an nogitare projence</u> has been oraught i<u>n Die</u> Woe<u>rligeligen in Richarger ('n prove that the amount was not b</u>eing oero b<u>y the spo</u>glants to mail consultant for the navember <u>of service has to the</u> <u>dependent of the uppertance error contrainer with 55, consument , the show</u> bease values states that the dependencet has find $\mathbb{P}\left(P\right)$ with the balance sotherities for the headstern set on the part of the committeel. The spectives also set been remotive the HUR, along web the operational The IL Adjudiosting Aurism y lies out accorned the plan of the Appellants. regening payment of amount of service rac & consultant and their band. Ade bellef that the consultant may depended the random on the grounds. first they have not excedenced non-authoritienty of each payment from the paradohanal service ter Subwordendens. Is view of the these lacts that thete is no evidence on rectra in prove callosich of the epochant with the PPE ett in the part and the fact the characteristic and and the first sectors and the FIPE filed against 3.6 controllant end it 2.6 consultantiș fac<u>iti</u>, 3<u>.0 cinceptis of</u>

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fround or collusion or willy, mestatement, or suppression of facts with interst <u>is, evode oxympia of ditty do not stand against first appoliants</u>. Accordingly, the experience are not lieble to any penalty or ter Section 76 of the Act Further, in view of the said facts an extremely lement view is called for while imposing the populty under Section 77 of the Art for our Wag the returns as the spoellants had antifuted the sord init to the contailant who yeas torrest to be involved in a travel and there is no enderice configing to The oppethanis claim on their collusion with the consultant

From the above findings of the to "Commissioner (Appeals) vinere it gap by some that the same is discussed in durants that maanling the fraud committed by the controlling with the opportant for not aspositing service <u>jar, in the Government's woosen for which Fift proceedings also inflated</u> against consultant by the department which aloanly shows that it is not the angentral who has controlled on offence of non-perioded of service less if is the consultant, who has defrauded their thatstore there is reasonable cause for velver of penalty under Section 78 Accordingly jil. Commissioner (Appeals) has conectly set estimate the sector incores <u>andre Section 70</u>. As regard the reduction of penalty under Section 77. harri Re. 20,0004 to Rs. 5004. On the same fact Id. Commissionar "Appeals) has expreised his discretion in reducing panelly from Rs. 20.000/ Id Rs. 500/. In my view there is no reeson to interfere in the finalings of the IS. Commissioner (Appeals, who has reduced ponsity by proper opprestant of mind therefore uphold the impligated order and dismissifier appear of the Revenue. CO is also disposed of eccordingly *(Emphases subjict)*

o view of above - uphold the incogned orders contrining cemand of service Б. tex stong with interest and imposition of lete fee for dolayed filing of ST-3 interest, however, illuse, as delipensity intropsed on the acceltants under Seption 78 of the Ast. and allow appeals filed by the appellants to the extent of dowinaposition of pecaley. imposed on them.

अमीलकर्तओं बचारा रही की गई अभील्स का निषटारा उपरोक्त दरीके से किया जाता है। ٩.

≘. The appeals fied by the appollants are disposed of in above terms.

<u>By Speed Post</u>

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्रियोग्स् (७मार शित.ः) प्रथल व जुल्ह (वर्तन्हा)

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The Commissioner CRAF & Central Decay Geodechase Commissionerate, 21 Gardhidherr (Kuld) (b. 1858-2557 8000)

- The Deputy/Assistant Commercianty, Cost to GAT Criscs Division, Gandh dharai Ξ; for recessary action.
- The Deputy/Assessment Communication, Viscoust G&T Rural Orvision, Gandhidham, 47 for necessary action.

<u>ج</u> Guaid Fle.

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