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- না বিভিন্ন মাজ উৎসেৱৰ দুৰু পৰি সুৰবাৰ উপৰে সাহ হয়। এই উপৰে সে ভাগি উপৰ পৰা নুগৰি বিভিন্ন মহলে উপৰ সেই ই কাৰ ইয উৎসেৱা সম্ভাৱ দেশিয়া কাৰমান উপৰ সেই পৰা হয়। এই উপৰে সে ভাগি উপৰ পৰা নুগৰি বিভিন্ন মহলেই উপৰু মহলে উপৰই ই কাৰ ই পৰি উপৰ উপৰ দেশীয়া বা মাজ উপৰ পৰি উপৰ বিভিন্ন । মৃত্যু বিভাৰ জীৱনাৰ পৰা হৈ মুখ্য ইমান হয়। ইয়া বা মাৰ্গ পৰি জন উপৰ উপৰ সমূহ হয়। পৰাই পৰি সুখ্য হয় আৰক্ষি পৰা হয়। মহাৰ মাৰ্গ মাজ আৰক্ষি মাৰ্গ কৰি বিভাৰ হয়। মাৰ্গ কৰি মান্ত কৰি উঠি জনা হ'ল বি মাৰ্গ মাৰ্ মাৰ্গ 1.6
- মননিক বাজনা কৰি বিজেপি সমানসক ১৯ গৰা বিশেষ কৰেছে মুকুৰ প্ৰেৰিণ উচ্চলাই পোনা হৈ পিছে এই পিছেই বিশ্বিতি হয়। মননিক বাজনা কৰি বিজেপি সেৱা মহজে ১৯ গৰা বিশ্বিতি উদ্ধিয়া কৰেছে মুকুৰ প্ৰেৰিণ উচ্চলাই, পোনা হৈ পিছেই এই পিছেই গ মূৰণ পিছি হৈ গৈছে যে এই এই এই এই পিছি মেৰা কৰি বিশ্বিত হৈ এই বিশ্বিত দুকুৰ কৈ মেৰেই বিশ্বাহাৰ কৈ মানুক কৰি বিশ্ব মূৰণ কৰি মানু কৰে বিশ্ব কৰে মানুক এই পিছে মেৰা কৈ নিৰ্বাচন কৈ বিশ্ব কৈ প্ৰথম কৰে বিশ্ব কৰে বিশ্ব কৰে বিশ্ব কৰে উ মূৰণ কৰি মানু কৰে মানুক মানুক এই পিছেই হৈছে বিশ্ব কৰে বিশ্ব কৰে বিশ্ব কৰে বিশ্ব কৰে মানুক বিশ্ব কৰে বিশ্ব কৰে ব মূৰণ কৰে বিশ্ব কৰে মানুক মানুক কৰে বিশ্ব কৰে বিশ্ব কৰে বিশ্ব কৰে বিশ্ব কৰে কৰে বিশ্ব কৰে বিশ্ব কৰে বিশ্ব কৰে বিশ্ব কৰে ব মানুক কৰে বিশ্ব কৰে মানুক মানুক মানুক কৰে বিশ্ব কৰে মানুক কৰে বিশ্ব কৰে মানুক কৰে বিশ্ব কৰে বিশ্ব কৰে বিশ্ব কৰে বিশ্ব কৰে বিশ্ব কৰে মানুক কৈ মানুক বিশ্ব কৰে ব বিশ্ব কৰে বিশ্ব কৰি বিশ্ব বিশ্ব বিশ্ব কৰে মেৰা মানুক বিশ্ব কৰে বিশ্ব বিশ্ব কৰে বিশ্ব কৰে মানুক বিশ্ব কৰে মানুক বাৰ বিশ্ব কৰে বিশ্ব কৰে বিশ্ব কৰে বিশ্ব মেৰা মানুক বিশ্ব বিশ্ব বিশ্ব বিশ্ব বিশ্ব কৰে বিশ্ব বিশ্ব বিশ্ব বিশ্ব বিশ্ব বিশ্ব কৰে বিশ্ব কৰে মানুক কৰে বিশ্ব কৰে বিশ্ব ব 141
- n (normation is sen the effective integral is easymptic method (normalized) 2014 Anno 2015 Sen and the sense and from sense the sense from the sense of the sense the sense of the sense 1912 The sense of the sense of the sense sense of the sense 1914 The sense of the sense of the sense sense of the sense 1915 The sense of the sense of the sense sense of the s 2.0
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- nermenter energes pres antidant, valo de agginta de agent per trêm salitanter arțe da ar) sa (Astina S.S. van e presentative feteriter per entre : Christen interfetere fetere fetere e energie entre retre al de veras seing antistigante base e sour feteres a al feto S.S. se unastitud un ter Schedule de entre of de Sau Pas de antistig entretad :-:
- ৰানে দেশ, উপটাৰ পৰাৰ মৃত্যু হয় সমাৰ এইবলৈ প্ৰথমিকল চুকা মিটি, উপনেটে, প্ৰথম টা মাজি যো মান্য নৈতিকে সমাজ হয়। প্ৰতিষ্ঠিন হ'ব মন ইয়াৰী গৈ মান্য হৈ মেতা মান্য হৈছে মান্য মৃত্যু :71 le cher matrix de la caracterit de la caracterit de la pro-Alexia e native de des participas de verse recese e di cabar vienda matrix construction de Cuatorna. Costa and San-ca Alexiate Treune, inconstant, folia: SSL
- zen altzen alfe Dina alta etter endire terdire terre, Preysient ellerni atsatt felfen, atterfi Bander faceger New Joseph alte Antonio Bander I. De Bander des antonio de Antonio etter alte etter Preysi zenza etter diptor ette Azo autorite, de azodiare may Fra Bander Department alte debangeret de etter :54

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-9-<u>:: SRDER IN APPEAL ::</u>

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Vis. Comp. Electrotech. Ltd., Survey No. 43, Megnpar-Galpadar Read. Valuka: Anjar, District: Sutonh, Pin Gode – 378, 110 (hereinafter referred to as "the appalant") "lied this appeal against Order-In-Original No. 68/2009-10 dated 15.05.2009 (hereinafter referred to as "the unprigred proof") means by the Assistant Opping control. Exclar. Division, Gandaidheni (hereinafter referred to as "the source, Centrol Exclar. Division, Gandaidheni (hereinafter referred to as "the source, or

2. The brief facts of the rate are that the argetant was energing in the Distant of Kutch, availing periods or Nodification No. 30/2001-CE cated 30.04.2001, as amonged (hereinafter referred to as 'the said not Rightion'). The sald instriction was amended vide NotiFication No. 15/2003-20 Later. 27.03.2038 and Notification No. 33/2008-05 dated 10.06.2008, which altered the method of calculation of refund by taking into consideration of daty bayable on value addition undertaken in the manufacturian process, by Gong percentage of refund ranging from 15% to 75% depending upon the commonly. The appellant filed clien of Rs. 46,10,827/ for month of April, 2005 car refund of Central Exercit Cuty, Education Cess and Secondary & Higher Education Cess paid for manufactured goods through PL/C The sandtioping authority vides the engineers arder strattened amount of Rs. 44,41,915/- but did not sampler wreath of (1). duty of list 4,618/4 "typixed in the product of IPS Packing (lastmath) which was monuratured from plant and mad increas installed offer \$1.17.2005 and -used for solutive consumption and (i) Rs. 1,94,290/- on the ground that the ∞d hat "Icaulan did nucleover Education Class and Secondary & Higher Education Case and hence, the refund of Doucston Cost and Secondary & Higher Education Cess het admissible.

3. Aggrieved with the implighted order, the appellant preferred the appeal, whereaver on the grounds as under: $\varphi_{a,b}^{a,b} > 2^{b,b}$.

3.1 Rejection of rofund of Rs. 4,618/-:

(i) The impogred order is bad in aw in as much as increasionang the return chain of amount of duly considered on rephysions another of 603,1995, that (increase) covered under Notification for, 67/1995, CP dated 16,03,1995, that it was undisputed fact dwa the ampellant internally deared production of CPS 2adking (Therapola) for onglive consumption during April, 2009, formanufaceure of other eligible products via CTVs, Cables, Washing Machines, FCH one under cover of invoices elected at n1 rate of duly, under and in terms of the NotMitation Val. 67/1960-CE related 16,03,1995, iss amended; this through characted hol for for the Cover ment has exempted goork manufactured and used water the factory of production in or in relation to manufacture of 5rs) products.

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frem where of outprodicknist laylogic thereasy that the nutrikation variantity. applicable to all products, which satisfy real intribution this notification; that this robification is issued and is working locally independent of the Natification No-59/2001-CE and thus has multing to do with the eligibility of inergibility of produces, under Not/Restion Not 38/2001-CC; Urat Not Restion Not 67/1995-CC constates for all the products manufactured and captively cleared by a unit having i common registration of central excise; that their instanciples is subserviols and by the sald netification as they are baying common registration of central carse. far all the products and elearances under remnance, that reather the North atton-No. 39/2001-CE nor the CRED's partitication referred to in the impligated order. states on implies a wwhere that benefit of Natification No. 67/1995-CE will not be allowed to the unit for any product, operating under Notification No. 39/2004-CE: that it is and spaced fact that the appellant degree EPS Packing (Thernocol) for paptive consemption at oil rate of duty under cover of invoice, issues by taking terrefit of Notification No. 67/696(>CE and thet the septemory authority. to culated imaginely duty psychie on such clearences, "gharing the Notifizztian" No. 57(1995-CE and reducted the amount from effolble refund amount of other products. The appeliant placed reliance on OTA No. 260/2009/COMMRIAN/RAT caled 27.02.2009 bassed by the their Commissioner (Appends), wherein it was Led that "since the final products are chargenale to exceed day the appellants. are eligible for the benefit of Natification No. 67/1985-CE dated 14.63,1995, og amended, for the intermediate proched captively consumed — " and since the facts and commetances of the present case are same as were there in above Of A motor the above pulgment is separatly appurable in present case a spi-

3.2 Rejection of refund of Rs. 1,94,2907-:

(i) Desper Section 91 of the Fibence Act, 2004, the Education Cess laying under Section 91, in case of goods specified in the Hint Schedule to the Excise canfill Act, being goods manufactured on produced, shall be a sury or excise, at the two of two per cent, exculated on the aggregate of all duties or excise which are leaved and collected by the Central Government under the provisions of the Central Excise Act, 1944 (here nature referred to as the: 'Act") or under pay offect ow for the fine acting in force.

(ii) As per Action VA(2) of the Hinderic Act, 2004, Education Cession, excisable groups is in addition to other pupers of excise chargenble on such goods under the Action acy plater law for the time being in force.

(ii) As per Section 93(3) of the Finance Add 2004, the provisions of the Act and the nulles made there under relating to re-ored as, refunds, exemptions from duties and imposition of penalty shall also apply to the sequences. itry one collection of the Education Class on extension grade institley apply in relation 20 die levy and collection of the cytoes of extinction such goods under the Action the rules, as the case may be.

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(iv) Section 108 of the Finance Act, 2007 provides for levy of Secondary and Higher Education Criss (2) 1% on the goods specified in the First Schedule to the Excess Family Ant, Secondary and Higher Education Cess is also a cuty of coning, and its invited on the aggregate of all distes of excise (excluding Pducation Cess) which are levied and cofedied by the Central Government updat the provisions of the Act of any other law for the line being in force.

(v) The appenent relied upon to owing case laws:

- f(s) = 0 there is 0 cm actory Ltc -2007 (00) LC2 D044
- $\langle \gamma \rangle = 0$ bernoval Premiscrand Chill = 2007 (218) C(810

(vi) In view of the booke, the exemption provisions of the sale Notatization No. 35/2001-CE dated 31.07.2001, as amonged, its also applicable to the Education Cess and Secondary & Higher Education Cess and hence, the appeliant was rightly taken re-precision refund of Education Coss and Secondary & Eigher Education Cess. The appellant cellusated to set as de the incorgonal order to the extent of rejection of recoally of refund of Education Cess and Secondary & Eigher Education Cess.

(vii) The appellant argued that Education Cecal and Secondary & Egher Education. Cecal reshing but puty of texture and therefore, the transfer/utilization at hasic excise duty toward phymont of Education Cesa and Secondary & Higher Education Cesalis allowable and hence, rationalis the same is eligible. The appellant further railed appendese law in case or Banawara Syntex Ltd. Reported as AST-2007-455 HD.

4. The appeal was kept in Uali Brok on the ground that appeal had been blob by the construction the Issue in the Hen'Ne Supreme Court analist occlsion of the Henble High Court of Cammu & Kasteriki in case of Bharat Pox Factory Ctc. reported as 2008 (201) ELT 416 (USK). The decision of the Henble High Court was approved by the Han'the Adex Court and reported as 2017 (355) 2011 431 (SC). This appeal was, thus, taken but of Call Dook for bassing appropriate profess. Personal hearing was granted as the appealant as well as department but no one appeared on the given dates and he row, 1 proceed midecide this appeal.

Findings:

 I have carefully gove through the facts of the case, the supergred orders, grounds of appeal and written as well or a summissions made by the appellant.

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The estimate to double, in the present appeal are as to whother (i) the spoel and is eligible for refund of Education Cells and Secondary & Higher Education Cells and Collins annealed, or otherwise and (0) the repetiant is eligible for refuse of Res. 4.51%/-, which was not allowed on the ground that the product Viz. EPS Bacong (Tolenholdor) Was manufactured from plant and machineries refused after 31.12.2005.

E. The appalant contribution that duty of exceed includes Education Cess and Secondary & Higher Education Cess in terms of previous of Section 91 of the Finance Act, 2004 and Section 138 of the Finance Act, 2004 and before, the previous of refund and exemption of the Central Exceed Act, 1044 are oscillated to excertation Cess and Secondary & Higher Education Cess that the central excertation Cess and Secondary & Higher Education Cess that the central exemption center Notification No. 39/2001-CE dated 01.07.2001 is also applicable to Education Cess and Secondary & Higher Education Cess and applicable to Education Cess and Secondary & Higher Education Cess and applicable to Education Cess and Secondary & Higher Education from the central to explicit the Education Cess and Encondary & Higher Education Cess and Education Cess and Encondary & Higher Education Cess and Education Cess and Encondary & Higher Education Cess and Education Cess and Encondary & Higher Education Cess and Encondary & Higher Education Cess and Education Cess and Encondary & Higher Education Cess and Education Cess and Encondary & Higher Education Cess and Education Cess and Encondary & Higher Education Cess and Education Cess and Encondary & Higher Education Cess and Education Cess and Encondary & Higher Education Cess and Educat Education Cess and Education Cess and Education Cess and Educ

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In contrast of the converse confirment he was wereign (1) of working 54 of the Council Parties Alt, 1941 (1) of 10 M), road with our section (3) of counter 3 of the California Duries of Duries (Respected Repeated Importance) Act. 1957 (RE of 1957) and sub-counter (5) of section 3 of the Arabitanni Bather on Evolve (Restities and Texale Articles) Act. 1977 (AC of 1978), the Central Gather and Sub-counter (Restities and Texale Articles) Act. 1977 (AC of 1978), the Central Gather and Sub-counter (Restities and Texale Articles) Act. 1977 (AC of 1978), the Central Gather menty indusive that it is one evolve in the Central Large and Inc.), therein examples the counter gravitation that from the Industry (Restities and Texale Texal), the Central Gather than gravitation that from the Industry (Restities Industry) (Restities and the Texale and closered from a unit located in Robert alarkit of Gather Texale Industry (Restition to match when any of eacher of the Mathematic dury of excise as the case may be written the texaterial and closered from a unit located in Robert alarkit of Gather Texale Texale (Restition and Science Texale are represented in the excision of any bey written the texaterials and the and Active and represented in the excision of gather of the texale (Restition and Science Texale Texale 2001).

However lines in the case of a unit linking an argunal value of investment in plant and machineric specification for the latency below review linearly cases on the same of communication of communical relations in that and, the exemption communication of the agent only in the first clausecont the relation appropriate value and concerning the wave of such investment from the date of communication of communication in during the each year.

 The interplant contracted in the activitient shall be great effect to m the information means, Actually.

(a) The menulactives shell within a statement of the duty part often man the emount or study part by provident of L2COM Linear andre the (2.4724 Country Policy 2001) to the societant formaticitation of the Organy Countrividence of Country Excerct, at the court may be, by the 2th day of the east month in which the duty has been so celo.

provides the designed demonstration of the provident transmission of the standard transmission of the second so may low when much reconstraints, we be made drawn received by what refined the second of must asks series and the amount of any good by which for all CEMA Takends during the proved provident contraction of the membershape of poles that may go the much months.

(ii) If there is block to be any delay at well with streng the A-datast Constructions of the Legisly Contractions of Central Evence on the case new by shah refund the account on pre-colored bools by the 15th way on the next menta to the month under.

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consciention, and matcaffic two, require the encode of refund by such amount as deep មែលមកកម្មកម្មស្រុក ដែន ដែន ដែលដែលផ្ទះនេះថា ដែនតែអស់ សេងសមត្ថន៍ដែន ដែន ដែន សមត្ថអង្គរដ្ឋាយអ្នក។

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The Education Cess was levied vide of Somona 92 to 93 or Chapter VC of 7.

the Finance (No.2) Ad., 2004, which read as under:

191. Television Cess. - (2) Without Excluding to the processing of industry (22) of section is there while the bested and collected, in accordance with the conservation of the Staplin in our longe for prepare of the Union. <u>It and to be added</u> by Education Conto fully the commutation of the Reservances to provide and Respect interspected every-รสระร ถอบเสรียม.

(?) — The Central Constraints may, after due dynamywrain y wade by Harburyeni Ir, ber m The Index's oblets, such some of money of the Education Core should under our automation (10) of we down 2 and then the plant for the plant spectra in sub-solution (1), so it may arithin marrier.

52. Ocholloc. The needs and expression used in this chemic and centred in the Setting Exclusively, 19-14 (1.57,19.16), the Contains and (1.62) particle the flow press part the Grence Act, 1931 (32 of 1924), shirt have the received encoded enclosed on them in these / cts of Chapter, as the case way be.

St. Constant Destron emissible general - (2) <u>The Education Data larked argues, perior</u> 52, m figs cause of positio constitute in the First Schedule to the Contral Surge Text Act. that (h m^{any} 1996), herey wards manufedug<u>el at produced, snal be a outs of exace (m</u> this warman reference in the induction (ever an exclusive graph), in the refer of 107, per party 4 dealered on the surpression of all datases of sources per larking special daty of service <u>or and other path of a scient path</u> including Finandian Constant and saidt an abd a biot and <u>invint and animated as the Contral Gaugement</u> in the Uthbay of Finance (Separtment of Hereavely, under the provoking of the Carbol Dicke Act, 1244 (1 or 13 K) or under $2a_{\rm F}$ other will for the time search in source.

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 $e^{3}e^{-2}$ The projections of the Control Bridge (ct. 1379) (1 of 2519) and but rates made Renewolen ingelige those relation to returned and experionent from duries and engenansen of periods whethers and any an<u>a manifest of the sense and collection</u> th the Himsham Cene on employing products they apply at relation to the pay and and and the second s nsien, as bie and anay be f

7.1 The Secondary and Higher Education Cess was levied vide Sections 135 up No.

138 of Grapter VE of the Finance Act, 2007, which read as under:

(2.3) Becausely and Higher Covarian Cess. -12^{\pm} . Without projugica is the partition: of solution than (171 of sectors 2) there shell be reveal and collected, to estimate vita The providence of this Chapter we continue for property of the Chart, A cost in the 200 Herbert werken yn aan Herbert. Er kenet ken i Geber ter faal het het maar men meent het die een geberen geberg DEWEE 200 PACKAR STANKEY and Native conversion

(2) The Central Constraints may establishe agareptiseen weeds by Parkinson by Surviv ing Admit, Utility, such sums of money of the Secondary and Digner Education Color have in the values from (12) of section 2 and the Chepter for the parameter oppoint in we have $\langle Q
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angle_{0}$ and $\langle u
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157. Definition - The water and expressions excelsion that 0.4 pion and assimution that Centre Exclusion Act, 1944 (1 of 1941), the Exclusio Act, 1962 (52 of 1962) or Chocker 7 of the UnimperAct, 1999 (UV or 1999), theil have the meanings respectively assigned to there as these first on Chapter, we the case may be

135. Scandary and Higher Education data we well-take work - (t) the transvery and (typics Education Core levels and a corean ± 26 , in the case of court takes in the transverse of courts takes t und Romanne In the Central Dicks Yarth Act, 1965 (5 of 1985), balag asasta monifectional comparational, shall be a chily of experie (in this section referred to as the Statistics and Hadra Februaria (ev. on especial graph), at the rate of one per cent. colonated an the equivalence of all shokes of resume for history yes as charges i was a set any stree duty of exclosing exclusing Education Gales characteristic meter and the life Immere (No. 2) (ct; 2004 (27 or 2004) and Sciendary and Higher Education Case on ware-tile years? which are level and collected by the Control Constraints in the However, a ninune (University of Kerenite), oncer the projections of the Control Diobo-Act, 1944 (1947-1949) in make one other has fee the tend because for m

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Harpe States of 15.

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(2) The formation and Higher Education Cets on extremite previously lie and Higher to any other during of excise chargester on such periods under the Caston France AC, 1971 (11 or 1011), on any other two for the time being in Proceeded High Education Costs chargester under section 42 of the meaning (Nr. 2) Act, 2001 (28 of 2001).

(3) The production of the Control Escher Act, 1941 (2 or 1948) and the rober mode dimension, including phase relating to returnly roun everywhere three during control relating to return by any check during the second relating to the second relation of penalty check, at the second relating to relating to return the second relation of the term of the term of the second relation of the second relation of the second relating to the second relation of the relation of the second r

A.2 Thus, the Education Cess and Secondary & Pigher Education (Less variable nature of symmargic and were levied under Section 91 of the Enance (No. 2) Act, 2004 and Section 135 of the Environ Act. 2007 respectively as outy or excise at the rate or 256 and 1% respectively to be calculated on the aggreeate of 20 duties of excise, which are veried and relexated by the Ceotral Governmerk. The provisions of the Act and the rules mode thereander, moreling times reading to refunds, and exemptions from parties and imposition of priority were mode approaded to the levy and collection of the Ecutation Criss and American A Lingher Education Cess on excisable goods as they apply in relation to the key and collection of the datase of excise on such goods and an ended on the Act.

7.3 If first that fundification No. 39/2001-CE cated 31.07.2001 had granted total (100%) comption from levy of excise duty by way of reford/rediability and the levy of excise duty by way of reford/rediability excise dury. Education Cess and Secondary and Higher Education Cess were over an excise dury and when the levy of excise ducy itself was executed by way of maturity/regnant, then the Toucation Cess and Secondary and Higher Education of the provide thereing of central Educe duty, the question of lowy of any subfrage or cess or whatever name is called thereing would not arise 1.840 vide terms 1. No. 145/2/2004-TRI(PL) called 10.08.2004 also dulited there be part of central there is called to 0.08.2004 also dulited there be and Cess is part of excise duty, the revealed pottion is as uncentral.

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The contrological is directed to state that subsequent to Puopet, 2004 announcements a number of againstabling orderinger have need account from the route of coefficient of the pays successory perturbing to support and Schwarker Coefficient account of the order of my meet generic the points of each and the distribution thereon are as follows.

norm. In. (1) . Whether Education Case on extensive grade is remain an gards . Resolutional arise to imposition of Cese but channed where systems in a mode areas.

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Leven Mr. (1) - Whether groch (the slockski baverages, that do not rail under the Countrickness local he emperied in here or intersion Gen on exceeder grochs (as pertof CVD), when they are experied into to be?

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(Emphasis supplied)

7.4 C3BC vide Circular No. 134/3/2011/ST dated 06.04.2011 again darified that since Education Cess and Secondary & Higher Education Cess were revieu and collected as percentage of service tak, no Sociation Cess and Secondary & Higher Sociation Cess would be payable, when and whenever service racies of hy virtue of exemption. The secondary was issued in context or service tax matter not the mention was accepted therein by the Board and hence would apply in the present least of circular No. 134/3/2011/ST dated 06.04.2011 Vs reproduced as under:

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RestExcitations from their means of from the links interfaces segment spinling proregarding the applicability of service fat terrapism to Education Case probes to be induction Cess invite under Engines (No. 2) Act, 2004 and forwards y and higher relation (new invite under Engines / ct. 2007), under profitations when the behavior an one toof accords energiest. Appending the doubt arbain in the contact of Tribussi-Origin in the memphatic Appending the doubt arbain in the contact of Tribussi-Origin in the memphatic Appending of a location and Service Ten BESS I (2005) This 1980 (SETAT KOL) = 2010 (Service Lin, Int. (Lancage)

2. The basic has been exercised. Through Tribund's Chiles referred elements in page of research, it is inconsistent with the code, knowled of works the Construction to ecomple elements in environment to ecomple elements in environment to ecomple elements in environment (F) of Finance (Ro 2, Act. 2001 and accession 100-1) of Finance (Ro 2, Act. 2001 and accession 100-1) of Finance (Ro 2, Act. 2001 and accession 100-1) of Finance (Ro 2, Act. 2001 and accession 100-1) of Finance (Ro 2, Act. 2007, Education 100-1) of Finance (Ro 2, Act. 2001 and accession 100-1) of Finance (Ro 2, Act. 2007, Education Collection Collection and the molecular section of accession 100-1) of Finance (Ro 2, Act. 2007, Education Collection C

3. This soling the initialization in the investigation and dominant for solicity pressedings in recover the solution case. Which we have not solve that we make grant the refusion. Extending the solic provides, where interaction over the been primited to experience when with sense last by three of consistent matchatrics we are further of an over last's even platter for the sense and the recoverse?"

7.5 In view of hittive, Education Cess and Secondary & ilights Education Cess were part of the Central Excise duly and since the central excise duty way then excineted by way of refund, Education Cess and Secondring & Higher Education Cess would also be exempted by way of refund. This view finds support from the final order of the PonDie Suprems Over in the case of SRC Auglests Pvil Luit

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reported wir 2017 (255) ELT HS1 (SC), where mit has been held that:

750 - Come Angele - 1995 Sector Emergins From The Centerly of These two chemory is play the General work from telen the costion that White plays of ended the Sector Tax Is also plays, come the Fridaeten Oers at well as Economy and History relation of ended (255 Pauld out the payoffs These combins are Frinting on the Department

cl. Even smartule, we are of the spectra that is a more rebardets second the -Anesest position as playtica by the Ministry of normalism in the electronic classical. trivelan (kss.a.an exclarida). E mean (b), itan, annow who are repaired to pay en he didy here is shed at Education Case of Hed. This Filender, they a straighted We furthing within which the change (Ma. 2) Att. 2923. At pits Switch in channel, Etheritary lane is the environment which the espected is to pay. Social 23 makes it cheer that the Education data is populate on becautive parates of the respect of parate scooling. In the Res Schedule to the Council Societ Local Act, 1971, synthety with Education Case & to be keded if the and according on the argument of the dames of entries which are levies and conjected by the Control Construction which the provincies of control profile / c), 1944 or under any other law for any link being in Asian Sub-section (0 or (section) St provides but the providence of the Central Excland Act, 10-14 and the robes and a linerworkers including those related to refundo and outlies, etc., what as the use may her -rendest in relation in they and robertion of Education Cess on exclusion goods. <u>A confide</u>r andra of dens painters much supply anarchine ligh<u>ingston Cost to s</u> natalahan, it taanii 🖗 Me an ila datar of ennee adada we pendite prite 🔐 🛵 👔 1991 Marging, 60 (2004) Margin data data data data basa salah data papetake eta a annand finn und an ha the first far the sec <u>(* 29. is to be administed on the prospecto of public of certics.</u> T<u>rain</u> shows the way <u>archerne when besit aver later is ilb.</u>

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24. For the discound contrast, on about time appeals and bold that the appealment wave part time appeals and the time appeal ap appeal appe

/Emphasic supplier//

5. In view of the above facts and legal position, 1 hold that the appellant is a give for reform of Education Cess and Secondary & Righer Education Cess. $Q_{\rm e} \sim 0.4$ -

9. I find that the sanctioning authority field that EPS Packing (Thermode) was menufactured from the inschinery installed after 05.12.2005 and used for approx communication, in terms of tiparc's Circular No. 116/20/2002-0X-3 dated 10.07.2005, hence, for appellicit was not eighter for beseft of Non-Tostion Ac. 40/2001-CF cotors (11.37.2001, as assenced, T find that as far eightlity of the product APS Packing (Thermode) under Nothfusiner No. 06/2001-CF dates 31.87.2001, as amended, it is undiscuted fad that the same has been manufactured from the date and mechanism installed after 01.12.2005.

9.1 If find that the said issue has been properly discussed by the Honble (FSTAT) Abmosphed in case of Reusadi Metals and Tubes U.d. reported as 2012 (275) FFE 2.33 (Tri. – Abmd.), in which previous of Notification No. 33/2001-CE has been previous set and this held as under:

16 Alter conduct, considering summissions made by non-the sides, we find that there is no aligned about the line that the genery in respect of which refused sources through the paper sufficiency, many manufactured with the machinese installed these 31-12-05. The neutronic magnetics, is concluded to magnetic of manufacturing units, which has made the instantion of generics, is concluded to magnetic of manufacturing units, which has made the installed and stated their generation between the two of the work, it can be called and and stated the length of manufacturing the installed the source is called and the she length or marked in course only those ones in the work. State many is succeeded that the length or marked in course only those ones in the work is state and a succeeded to the length or marked in course only those ones in the work is state and a succeeded to the the product of a 31-13-05. The barries of the solid anter some is have, is an excitated to the topology is a substance of the generic mather with the plane are marked to the topology is a substance.

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8 Norm If viewed nom the conditions of the nonlikations. If is clearly monthered that the locals of modulation would be presently a regret of they group starts have reacfully complete rate to 31.5.5% and has studyed their production prior to the and data. There is tableted in the solid inducedian is enquerin concentric with the Arel Start ST 12.5% in respect of the subsequent function of plant and startships, As rightly contradict be learned SDR, when the arelification are unambigueus and dearly to you can be deared by learned SDR, when the arelifications are unambigueus and dearly to you on the concidency, the coope of the same contrative encoded by referring to the learner of the nonlinear and required in the integrabled in promotions will be work of the nonlinear.

9. Even Court of by the Asphilter Intent the same force of the form the work of anticles and clarifications locars by the Covernment. The TRU states R. Int. 238(25)51 TRU: datable 17-10-01 addressed to the Chief Commissioner of Costanty Vascown seeing dualitations rabad by the Chief Commissioner supports the Revenue Costa (pr. perfect eventeuries), we report the Chief Commissioner supports the Revenue Costa (pr. perfect eventeuries), we report the Chief Commissioner supports the Revenue Costa (pr. perfect eventeuries).

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19. Reference may be made to Chause Net 1197127609-04.7, cosed 19-7-33. The reference period such distributes and the basis is so under γ

"Head New Y - Belogher May Longla of exemptions such the secondar lik specific bracks to that the calls where according when the car will date for the commencement of commutal production (cs. 31-12-2005).

Ormande : There would be that situations. Each is that where would all shows a more constant by instability from plant, conductive or constal years where the set of a data is work a allocation conditions would not be available to the thick product. The sets new product visual or closed on payment of duty, as applicable, and expande retries would be required to be maintained to distinguish production of broad products include to december and the distinguish production of broad products include years (closed for the significant).

The effect of the set is the case where a cost norm producing mean particles (after the Col of the of many the short and monthingy bounded optic the control take and without any addition to any particular additions. For a works, it there is provide monotod products a with may communic the production of efficient products singly by theory with many and data in that case, the only would be eligible for the beaction of Arbitration measure the production of efficient products singly beaction of Arbitration measure the plane and mechanism used for memory to be added the many in the connection of orbitration of the only of products completely the original value of plane and mathematic for a single of plane of another the many in the connection of a bottler confering that are the propose of completely the original value of plane and mathematic of demonstration of plane and mechanism instantiation of the connection of the mathematic of demonstration and mechanism instantiation of the connection of the context of demonstration and and the original value of plane and mathematic of demonstration of plane and mechanism instantiation of the context of community of demonstration products of the form of the context of the context of community of demonstration of products of the context of the context of community of demonstration and the context of the context of

12 Admittante Fin Chartening Innert by the set when others upon the legislicity intent that the bandit tasks that and untervalue is subsched to be material only the move unity, which have samed administric production of before 31-12-05, and the reveal control be extended to the products manufactured by matching flow, plan and methoday. To the product effect is making filler written by TRD on 20th April 2005 subschedul in the formation effect is making filler written by TRD on 20th April 2005 subschedul in the formation effect is making of figuration of the field of the bandit of the notation would not be analytic of the set of the filler and plan the bandit of the notation would not be analytic of the set of the set of the commences commercial evolution atter 31-12-05.

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In which we like equilibrit hed eximited is instituted a new second taxe mill situal 31-32-Co. Through on the same features when new earlier enjoying the exemption, we are situated to the sound of the modification model and for constitute on the experiment of einter and the adjust of the modification west to make involves for memory and the therm much as the adjust of and radification west to make involves for memory of the therm ered and the constant of the radification west to make involves for memory of the therm ered and the constant of the modification west to make involves for memory of the memory respect of when well sound in examples before 31-32-05. Allowing of memory purpose of memory of the constant point and the tegrabelities makes

 $\mathcal{T}_{i}^{(1)}$. The conversion of the expression of $\mathcal{T}_{i}^{(1)}$ is the sequence of $\mathcal{T}_{i}^{(2)}$

5.2 E find that after issuance of Skithfeation No. 39/2001-CE dated 31.07.2001, contractions dated 17.10.2001 and dated 10.07.2003 (Carified Inst. the intention was to keep the operation of the scheme simple: that benefit of solveduent investments would not only complicate the scheme. the granum of henefic available to any unit would also keep changing; that the benefit of Writfication No. 39/2001-CE would only be applicable to those new isolatrial. utility, which commences commercial production before 31.12.230.4. In other words, it a new industrial unit commented commutatel production after. 31, 12, 2005, then suce industrial unit was is not digitize to avail exemption uncerthe said notification. Also, if commercial production on a particular productinable net commented on or before 31,12,2005, then the benefit of the sale net fittelion. wable not be available to such goods. It is also derified that if any unit introduced, a new product by installing fresh plant, machinery or capital goods. after the subsoff calls, then exemption would not be available to that new product and the same would be cleared of bayment of duty, as applicable, and secarate means would be recoved to be maintained to distinguish production of these products from the products which were eligible for exemption. These stanfications were itsued on the Notification No. 39/2001-Central Excise dated (std7.200)) and any to be harmonicusly read with the provisions of the said not fraction. Therefore, Trille product EPS Packing (Them ocef) was concilerable. producer/manufactured, after 31.12.2005, then the penefit of the Natification Nr. 19/2001-CC dated 31.07.2011, as amended, is not available to the appellance frank 🕻

9.5 C find that in the instant case the appelant had stated commercial moduction of CPS Packing (Themscal) after 31.12.2005, from blant and modificaties installed after 31.12.2005 and the appelant also falled to submit any ovelance of connectual production of EPS Packing (Thermotol) on or before 11.12.2005, then the contention that they had hot dealed EPS Packing (Thermotol) for bone tonsumption carring the period under constituent on and had only castively consumption carring the period under observation and had only castively consumption (PF dated 31.07.2001, as targeted). Therefore, I hold that rejection of refunct of Rs. 4,618/- vide the impugned order is correct, lead and property.

Harps No. 12 of 12

- 111 -

10. Accordingly, Jiolow appeal for sanction of refund of Planston Cassimer Screndary & Higher Education Cessibut reject appeal for refined of Cs. 4,518/ and modify the implumed order accordingly.

ee. — अमीलकलो द्लास तर्ज की भई अमील का निपटास उपसेवल तक्तिंग्स से सिन्दर जाता है .

The spacel filed by the appel ant stands disposed atf in passe terms.

	। साराजितः (श्रीप्र-१८२०-१९२२) मिनियम् (श्रीप्र-१८२०-११-१८२२) राज्याने श्रायः आयुन्दा (श्रयील्स) निवारक (स्वेन्द्र स
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- En. 43	nus Electrotech Lld., Suivey ¹ मे. जीनास इलेक्ट्रोडेक औ., , Moghgar Galpaccon Road, Anjar; District: Kutoph, शत समें नंत ४२, भेषपर – सलपायर रोड, तालुका – [70-110] ;भंजार, िंदिरक्षा – क्ल्ब्रड, पिन कोड ३४० १३२-
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