

ः ५ मान आगुक्त (प्रमोण्स) का भागांत्रक, यस्तु ६२ तेका कर लाव केन्द्रीय उत्पाद कुलकः। GHT THEOPRIANT PALACOMMISSIONER (APPEALING GAT AS I WITHAIL PACING

ਵਿੱਚੀਕ ਰਕੂ, ਕਹੇ ਵਲ ਵੀ ਸਵਾਸ਼ 70° ਸ਼ਹਿਕਾ, GS , Balassa रेस किसे दिन सीच : Raca Course Ring Road Kuz 6147 Račkou i 350 001.



Tip o Fox No. - 90 - 2197952-3449143 Email: casaspedasjon.jig naibean.

रांतेकर्ण हाक ए-डी-डाग :-

New Johnson

MERCANTAMIENTALIA

THE LIGHT (C.) L. L. C. Ha

24/flafinid:2017-18

Face 2

F 1 -02-03-2018

স্থানির পারিস লক্ষর (On gr-In-Appeal No.); 打

KCH-EXCUS-00H-APP-030-2019

ना देश कर देशनों कर

Darle on Orden.

27.112.2019

जारी करने की बारी घा

Downof Education

08.03.2019

कुमार पंत्रीय प्रशास क्षापुरु (असीला), सहस्रीत झाल मार्गिता है।

Present by Shri Coman Santock, Principal Communes, concluding a Santock (

भगन् अनु । १ ५ १ के अनु । हे अमानव १ ५ सान । ज हम्प क्रिकीय उच्चार **मृत्य** हे मेचाकर काम् एक नेकाकर.

र नहींहै अभे अनेवर अंगोबीबामा हाल प्रवर्गिक ने नावा मूल अर्थ में हुएका अ

 $An sing non-those maintain in SIC is said by additional <math>\mathcal{J}$ out of \mathcal{J} and \mathcal{J} 2 CS11

Balksh/ Jamua on / somsholf / me

क्यों करनी क्षेत्रमें कार्य के लाग हम तथा विश्वासन के Ademok of the **appellant** के Ademok of the

MA Welspur Dock Ltd., Reibery Wilepon City, Vilege-Personnels, Tatale: Anjer, District: Kotch, Par Rou-X7IIC 10 Rejears.

का अहेक, प्रवास में प्रति के कि लिए दिया कि में अपने अधिकार के किया है। अपने अपने अपने का अपने अपने अपने हैं ए Any person ngg rewell by this Ouder in Appeal Liny Lie all Robert to the appropriate authority in the Deposits with

्राच्याच्या १९५० १९०१ कुल्क १५५४ प्रदेश १९७५ एक प्रेमान्य द्वामीकार पर्वमधिकाय मध्यम् वर्षीयः कुलीत् वस्तुत् शृष्या प्रीयीतसम् । २४४ मे आसा १९५४ - १५१ पर्व पिन ४ वे लेका, १९१४ ए जात् १९५० पर्वम विद्यार्गाकेत त्यस्तु को जा उन्हों है । १९५०औं १९६८ राज्याच्या (१९४८ के १९०० वर्ष १९४८ वर्ष के स्वाप्तिकार किलावा (१९४८ वर्ष १९४४ के लेका १९४४ के १८४ १९५७ परिवार १९४८ वर्ष को तिरुक्त मध्या १९४८ वर्ष १९४८ वर्ष के १९४४ वर्ष १९४४ वर्ष १९४४ वर्ष १९४४ वर्ष १९४४ वर्ष iáj

्री तक कुछ पन ने सकता ना कुर्त का के हैं, जातुन, किसीच सकतार इस राज्य है, कह अमेरीच सामानिक्य की विशेष हैं है, कि अमेर के, अन्य क्षणुक्त, नर्व देखी, के की दान के देख हैं п

The substal branch of Costonia, Estist to Polynes, No Acres ato Pritomat of What They Roll Cost Burst. New Control all medium to shap to describe our group and on all medium to shap to describe our group and on

त्यसार परिचल (१५) में कुरा, एक आणि के असला था नहीं अपैदि साथा भूतत है कि नामद कुना गाँ से का क्रिकार मार्ग देखा प्रतिनेत्र में सबसे सेमर परिचल, देशीर पत्र तरमाता नका असल असलावार- १८०० देशी में देशी परिचल के Thi Me We't region, beach of Casterns, Eurise & Fourier Tue Appellate Tribunal (CESTAT) 215 Floor, Bhatanad Balawan, Avarad Almedaball-2800 के कि make of appeals other than as exchange ıĽ.

हितात. Birkumia o Balkwam, Avar an Almeraubal-2000 के का ease of appeals of the first as executional of the first acts.

(Applicable of the first o -i_1 . 11 1.

The square of the Appellate Program and the nice of quarter consistent from 1.8-3.7 as prescribed under the notification of the model between (Appellation of the second program ıl :

The pyreal independs again to consider 85 along training A.B. 1964 to b. Appella. Tilluming the District of the properties of the properti

ात है है है के प्रति के प्रति के कार्य के हैं है है है है है है है के प्रति के कार्य के कार्य के कार्य के कार्य के कार्य के हैं है है के प्रति के कार्य के

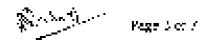
ıIJ.

- No differ on 14. Alter a due is alternation application to Congruence, of Indian Congrish of girls of Allers in Earling in the Congruence of Selections, Selection of Selections of Selections of Selections and again flags, the engine in the Propose constitution flags, color designal alternations of Selections of Congruence of Selections of Selectio IC:
- tit
- मार्ट के बाक्र किसी राज के हिंद के जिसके कर रह जात के विकित्य के देवा कहा जात कर मेरी कर उन्हें '' one gar '' है (किस) के समयोग , को साम के बाक्र किसी यह के किसी की विकीत की की है ? In teast of moreon of a live of course of groups served of a profession of memory groups (busine had) as expressed to a representation of the more of course of the group which is a composite to say course, in terminal course of the more of the group which is a composite to say course or continue. Ш
- क्षेत्र कर ए तुम्म के, का अने कि विकास्त्र के ब्यार कुने के या तुसन की साल निर्मात कियार का है। ह En auscraf सुक्तांत्र exposical outside from a case that form our three set, within Apparation straight
- ृतिचित्र प्रश्नात के प्रकार प्रत्य के प्रत्यान के विकास की बेर्नाय का भीतियान पूर्व करते विभिन्न समया िये प्रत्या पर प्रत्या पर प्रत्या कि अपने एक प्रत्या कि अपने एक प्रत्या कि अपने एक प्रत्या कि अपने कि
- enter of the process of the matter compact and a given to the process of process. It is a second of the process of the proces
- पुर्णिक आहरत संभाग स्थानिक भिनानिक प्रकानिक वाक्षी है के भी कहिए। हैंगा मैंटर राज्य राज्य को भाग करने के के कि के 2000 के 14 वाहित कर जाता और प्रतिक्रित कर एक पान करने में होता है है जनते 1000 के तो मेंगा को कि के 3 The relation subdominated for publications of a fix of let 2000 where the amount more were in Support One Lee & Loss and do. 1500/24 where the amount involved to meet from Renwest the for ~.l-
- नवापकेषिक सामापार कुछ प्राथमित । १९८८ है अनुसर्थ । है अनुसर्ध कुछ अधिक के स्थान अहेब के उन्हें पुर्व निर्मारित हुई। लोक के स्थानक बेटा अधिक क्या कुछ भार्किया । Gue gaps of application of OUIS as the response for and no extend this concernation with a fire of the shall than a real of the slamp of Re. Success a presented under response for method to free fire of the Ouy of Ed-ad , Drawas amorning 41
- भीमा आहे. हेन्द्रीय प्रस्तुत्व अस्त एक् विकास करी हो या प्रतिकृत्या असन निर्मात समानामा । २०११ में विकास के अल भागती हो भागतिक अर्थन वाले निर्माण के प्रतिकृतिक सम्बद्धित स्वतंत्र में हैं acceptances associated to the rules of each proper and other meaner inverses a court, rec. Ea Co-Customs, Marchest of Salaton Associate Thomas (Propulation Customs 1980)
- d.:

CREEK-IN-APPEAL ::

M/s Welspun Corp Ltd, Village Varsamedi, District Kutch (hereinafter referred to as "Appellant") filed Appea. No. V2/2/GDM/2018-19 against Order-in-Original No. 24/2017-18 dated 2.2.2018 (hereinafter referred to as "Impugned order") bassed by the Dy. Commissioner, Ceptual GST & Central Excise, Anjar-Dhachau Division, Gandhidham Commissionerate (hereinafter referred to as 'refund sanctioning authority').

- The prief lacts of the case are that the Appellant, holding Scivico Tax Registration No. AAACW0744LST007, filed befund claim of Rs. 8,96,9037- on 1.1.2018 under Notification No. 41/2017-ST dated 29,6,2017 in respect of Service Tax paid on the services utilized for goods exported by them. The refund sanctioning authority rejected the refund claim vide the impugned order on the ground that the refund claim did not fulfill the condition stipulated at Para 1(c) of Notification No. 41/2012-ST dated 29,6,2012 and homes, the Appellant is not elliptible for refund of Service Tax.
- 1. Bring aggrieved with the impugned order, the Appollant has preferred appeal, Inter-oils, on the following grounds:-
- () The refund sanctioning authority has not followed principles of natural justice, as neither any query was raised non-oppositurity of personal hearing was grapted before rejecting the refund claim. It is a settled law that principles of natural justice has in be followed in any proceedings under a law. The Appellant, therefore, requests for remainding the matter back to the refund sanctroping authority.
- (ti) The refunc sanctioning authority has overely put vague calculations and reproduced Para 1(c) of Notification No. 41/2012-ST dated 29.6.2012 to reject the refund claim. It is neither explained in the impugated order nor reasoned as to how refund claim dissatisfied the condition in Para 1(c) of the Notification soons. The impugated order being non speaking provides deserves to be set aside.
- (rii) The Appellant duty complied with the condition at Para 1(c) of Notification supro and if the refund claim was considered shipping oill.



wise and not in totality, these eligible amount of refund would would be more than the amount old medi.

- (by) The Appellant is a manufactor operation and way registered with Central Excisor. The refused plaint was rightly filed before the Dyu Commissioner of Central Escise is only [0.4801ctron over the includy of the Appellant.
- 3.1 In Personal Hooring. They renterated the grounds of Appeal and sponstfed that they have defined robate under Para 3(a) of Motification No. 41/2012-ST dated 29.6/2012; that even if they don't meet the condition under Para 1(a), then also reports needs to \times allowed because goods have been exported and refund claim has been made within time.

Findings: -

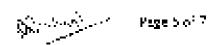
- 4. Nave carefully gone through the facts of the case, the impugned order, and written as well as oral submissions made by the Appellant. The issue to be decided in the present appeal is whether the Appellant is eligible for refund under Notrication 8c. 41/2032-ST dated 79.6.2012 or not.
- 5. If find that the Appellant had "Bedictation for defunid of Service Tox of Rs. 8.96,903/" paid on the services attized for expose of guods under Notification No. 41/2002/ST dates 29.5.2012. The refund servicining authority rejected the refund claim on the ground that refund claim did not fulfill the condition scipulated at Para 1(c) of Notification No. 41/2012/ST dated 29.6.2012 and consequently the Appellant is not oligible for refund of Service Tax. The Appellant argued that the refund sanctioning authority did not follow the principles of natural justice, as refused query was raised for opportunity of personal lengting was granted define rejecting the refund claim and recleated to remand the matter to the refund sanctioning authority.
- 6. If find that it is evident from the impugned order that ordered show cause notice was issued not apportunity of personal hearing was granted to the Appellant before rejecting the refere claim. I find that issuence of Show Cause Notice and granting of personal hearing even when issue of

SCN is warved, are obligatory before passing of quasi-juxficial orders. Having failed to do so, rejection of the refund claim has to be considered as illegal and not proper and in violation of the principles of natura. Justice. Iroly on the judgment of the Horible Madras High Court in the case of Yasta Bio-Tech Pyt. Ltd. reported as 2018 (360) E.L.T. 234 (Mad.), wherein it has been held as follows:

- The perficiency is against that I ad a show coase herear near issued to the performance between the unperforaged and the early invested and would have explained to the Authority, as regards the discrepances between the unperforaged and the early interest of identification has been filled to justify their said. Since the named rejection of the periformer's draint for round results in civil consequence, the principles of hazard justice demands that the politoner obtained any coperformity. The explanation sought to be given by the respectively in the No. 10 of the explanation sought to be given by the statute does not put a har for an apportunity being grunted, and if statute is situate, then, principles of natural justice has to be read into the statute, so that the excesses has reasonable appointment for the first this ease.
- 6. Hence, the above reasons, the peritomen is directed to treat the ingegrood go generalizing, ingular saturations the relationaria placement of building Rs. 133,5864 is concerned, as show emise, where subsort their objections within a period of 30 days from the date of receipt of a copy of this order. On accord of the observations, the respondent shall alterd an apportunity of passinal neglect to the our registed representative of the portugion of a register the case as projected by the perindner and examine as to extend a receipt of the control of balance amount of Ro. 1,85,3864. The above direction shall be supply of with with an apprical of 60 days from the date of receipt of the objections.
- 7. Accordingly 1999s. Petition stars a disposed of No costs.7

(Finphasis supplied):

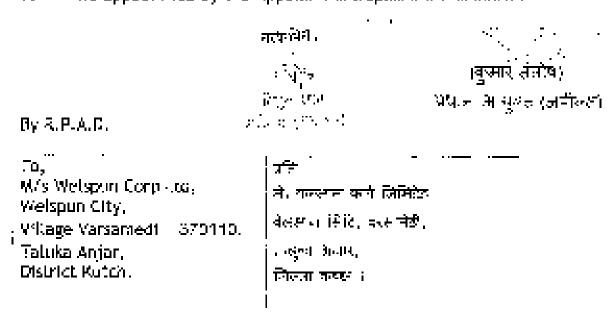
- 5.1 I also find that lacenae left in observance of principles of natural justice can be cored only by the original authority who flooted it as has been reld by the Horible CESTAT in the case of Jagor Singh reported as 1987 (28) ELT 521 (Tri), wherein it has been held that.
 - 18. A period of the sact attributes would show that the ratio of all the seeds and its man deficiencies of note of just be before this. If honor enough to cared in subsequent proceedings, in other words, if the opportunity to defend is not a tools? Its man implies you be forced in of the opportunity to defend is not a tools? Its man insulated for more defined would not one the deficiency of natural justice which was not granted by the trial court. There can be no quarter which was of principle of low as and when precision small and whenever in was found that an opportunity to defend was not afforded by the trial Tribunal the case was always considered to the that Tribunal itself to decade the risk was always considered to the that Tribunal itself to decade the risk was always to another and proper opportunity; to defend. To quote, in the case of *Bakhi Melina and Cikera v. Collecture of Chakhi Indian and Cikera v. Collecture of Chakhi Indian and the locations of the case in the light of the maseryor into made factors.* In the light of the conserver into made factors in the Tribunal in the remoted base times light of the maseryor into made factors. In the light of the conserver into made factors. In the light of the conserver into made factors. In the light of the conserver into made factors.



appeal against the under of this cover a greater. According that is no say, the Bostel's Oblig. No. 65-97 of 1678 have a to 980 confirming the Order-in-Original No. 70 in 860, and d. 7.7 is in and complained that is was got a variation organization of the analysis of the segment of the analysis of the analysis of the coverable of the parameters which related to the Coverage of the order which related to the Coverage of the order of the first order to the Adjudgeting Appellate Authority. Thus, in the passion of contain the relationship exists and the cases situates aforest dispersion and a proof of the instances.

(Emphasis supplied).

- 6.7 In view of alloye, is in speciment that the defictency allowed to dreep in by the retund sanctioning artificity as fact be cared or set ingut by this Appellate Authority txif by bim citiy.
- In view of above backdrop of non-compliance of principles of natural justice by the refund sanctioning authority. I have no option but to remaind back this case to the refund sanctioning authority, who shall follow the principles of natural justice, giving the Appellant sufficient apportunities to be heard and then pass reasonable and speaking order within 3 months from the receipt of this order. The Appellant is directed to submit their say with all relevant occuments within one manth in the receipt of this order.
- 8. It therefore, set aside the impugaed order and allow this appeal by way of remand to the refund senctioning authority to be decined will be 1 months from the receipt of this order.
- 9. अमीरकारों द्वारा दर्ज की गई अपीत का किंग्द्रारा 350 कर नहींके से किया जाता है ।
- 9. The appeal filed by the Appellant is disposed oil as above.



પ્રતિધિ'<u>ે ⊹</u>

- प्रधान गुरुष आयुरुत, बस्तु एवं सेवा बद्द उनं केन्द्रीय इत्पाद शुरुक, गुजरात संघासहसदाबद को आनकारी हेत्।
- 2) आयुक्त, बस्तु एवं मेवा रूस एवं वेशद्वीय आपाद शुल्या, भाषीधात आयुक्तालय, भाषीधात को भावश्यक कार्यवाही हेतु।
- 3) इस आकुक्त, यस्तु उर्व सेवा वर उर्व केन्द्रीय अताद शुःश्वः अंतार-भचाउ मण्डल, गांधियान आयुक्तालक, गांधीसाल को आयश्यक कार्यवाही हेतु।

५/५५ - गर्ड काइल।