

🗅 प्रधान जानुबन्ह (जमीलम्) का कार्यलय, उसन् एवं सेवा ४२, और केपद्वीप अत्याद,

भारूमाः :

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अकेष अस्ति संबद्धाः 玉 Anna Anteina

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तह अनेता ता अ

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जमील जादेश संबद्धा (१५) ५-५-५ ५ ५ (५)

KCH-FXCTS-000-APP-053-2019

भारेश का दिलक -

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कुरुपा संसाद, 5%मा आ**नुसर (उपीस्म),** राजकार दुनार प्रतित में

Pleased by Shri Kumar Sambah, Princips, Commissioner (Appeals), Rejhot,

त्या जायुक्ती संपूजन त्ययुक्ती तमादुक्ती अञ्चल त्ययुक्त अन्तर्भ गत्माद मुक्तिसंग्राकरी वस्तु वर्ग स्थापना, राज्यात । जार्ज्यम् (मार्ग्यसम्) वर्गाच अवस्थिता जीते गत जाटेग व पार्वेत, । ।

Arising out of above mentioned DID locused by Applibous/CompCapuly/Appliant Commitmicres. Central EwilderST (IGST)

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Mily Restriction to a Composition Legislat. Burry's No.446., Whige Bipingsyn, Tylubo Anjorthic Kirtok 970-940.

ুবা ছাহবংছাইছা বাঁ কৰিল কৰি আহিছ বিজ্ঞানিছিত কৰিছ মাত্ৰমূলক আমিছাই। আহিছবেদ কৈ দুনত ছাইজ আহব কৰু বছকা है।' একে সংক্ৰমণ সংক্ৰমণতে ২০ lbs Coles-br-Acres' ১০০০ কি এল স্ক্ৰমণ্ড চিচ কি সক্ৰমণতে ২০ bbs কৰা কৰিছে। লাগতে তিনিক ৩০০

काम, कुम्बा केंद्रवील उपनुष्ठ कुट्या कर मेंद्रवता क्रिकेटन क्षाप्तिकाल के कींद्र आगेत, केंद्रिय आगत कुट्या क्रि के केंद्रविकार कि जामेलिकर, 1994 की भाग 28 के जेतरेड किन्सीकोटर जनता की जा रक्ती है । Outputs I to Dustress, Extrem services for Appellate Trustees, under Section Section Cody, 2015 - 2 main Section 85 or the Appears Associated Section (Appellate Trustees, under Section Section Cody, 2015) - 2 main Section 85 I À I nd the Progress Applicable an appearance to

ıī-তৰ্বৰৰ মুহৰণৰ মান্তৰ্বিত মুখ্য নুমুকে বুলৰ মুহল, গাট্মৰ ভাৰতৰ পুছৰ বহু মধানা এইছিল স্বাৰ্টিকলে বৰু টিইৰ বিচ কৰে। न्त्रांक में 2. रेगर- क. पुरस्त, नहें जिस्ती, को की राजी मार्गित 🖟

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हम्पोक्त पहिल्लेक पात्र में क्वल गर सर्वार्त के सबान मेंग तभी भूगोंके हीना हुनन, बेहीय क्याद सक्य पर्व हैयाक करियोद न्याद प्रिक्त (मैसर्टेट) में मिरियन हैयान में किया, दिवशोद नन, बहुसको क्या क्रमारो अनुस्थानक स्थानार में में जानी नाहिए U में के किया किया की किया है। कि प्रोत्ताक करिया कि किया किया किया किया में मिरिया की किया की किया की किया किया किया किया की क्ष्मों के स्थानिक स्थानिक स्थानिक किया किया किया किया की किया के किया की किया की किया की किया की ıŀ.

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र स्थित सकति। सम्पर्क कर्मात अभेत, वित अतिकियत, 1594 की नाम 58(1) के उत्तरन संग्याद केवलकरी। 1594, के कियत 2(); के बहुत दिवरित परंच 3 1, 5 म बाद पतिमां के की या तकती कर 166 कार्य किस अदेश के दिख्या उत्तरित की नामें हैं, उसकी पति साव न उत्तरक को (बहुत ने 9 के बीत बतायित होतो साहित) और हमते से बात से कम वक पति के सुन, बार देशकतु के 750 कर की सीत की नमाण गुरा Æ. ন উঠিন- নাই নাধ প্ৰথমে কৰে জা নিৰ্বাচিত মুক্ত কৰা কৰে। দিল। 🗸

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0...¥पिरिमान । १९६५ की गारा ६९ की उन माराजी ,थुं । रहे '≙ष्ट्र के इंग्लिक (क्रोबी क्रोबी कर कर के के बनवानी । 1994 के किंगल 9(2) Ŀ पर अहर के पहल कियारित प्राप्त 2000 के की का उपकोर पर नहीं निर्माण के किया है के समझ करना जानाम (क्यों निर्माण इसाद कुरुक कुमा में कि कारिक की विकास करना है। जाने से प्राप्त की सामझी नाहिया और जानुस्त द्वारा सामक जानुस्त और ्रमानुकार, मृत्यिक उरमात सुरका, देशका, कर करोबा व कार्यप्रीकाल को आपका को करोब कर निर्देश देश वार्य करी भी वर्ति ही तना की

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सार परिचार के स्वाप्त के प्राप्त के प्राप्त के किया है। परिचार के प्राप्त के प्राप्त के प्राप्त के किया है। क की पार्ट 80एक के लेलाज़, जो की किया लॉपिकिट, 1998 फी पेए ⊜ि जो नेत्रीत हैकका जो की जा। की तर है परिचार के प्री अधीर्ज अधिरूप के अर्थाज करण मनत जानज शता है। परिचार के 10 हिंदित (1986) उस लॉग एवं कुसला **दिवारत है,** पा कुसला जूण ने कर पुर्वाचा विद्यादिक है. इस कुण्यान किया करत. कार्य भेग हमा अस्त के 200 के राज कि साहै। अभिनेत देश पानि दर विकास पुरवाचा विद्यादिक है. इस कुण्यान किया करत. कार्य भेग हमा अस्त के 200 कि साहै। अभिनेत देश पानि दर्श करेंद

विच्छीन उपनय पुरस्कारत प्रेराक्षण के अर्थाया, जागा देशा भग पुरस्का से क्षेत्रक धारीका है। १९५१ - 1 कि के कार्यक रूपन

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केन्द्रेड करा। की भी राह गरता रहित

भूक्षतीत करा किंद्रसावधी के स्थित हैं। के मुख्यों के राजन

– ਜ਼ਿਲ੍ਹੀ ਕਰ ਵਿੱਚ ਸ਼ਾਹ ਹੈ। ਜ਼ਰੂਬਾਰ 'ਤਰੋਜ਼ਾ ਕਰ 25 ਕਾਂਨਿੰਟਿਕਰ '22' ਵ ਤੋਂ ਆਵੇਗ ਜੋ ਸੂਟ ਵੋਜ਼ਰੀ ਲਈਜੀਦ ਜ਼ਰੂਬਾਰੀ ਤੇ ਜਜਨ।

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വർത്ത് 19 വ്യവ്യവം - Malan Continu I. note: strill colocid files - U. Pro Jamen Hall Land Intellular - വ്യവത്ത് പ്രവാധന ദ്യവത്തിലും പ്രവാധ (Section 1) - Do - വ്യവത്ത് - American ഉത്തിലും വേദ്യ 100 along the Circular Profile Rates - വായിൽ വേണ്ടെ നിവധിക അവിശേദം വിന്ന് 19 മാർത് നാ മാറ്റ് 18 നില് - അവരുന്നും വര്യിൽ വേദ്യ 100 along 100 al

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मान गाना को प्रतिकार सकता: Cardelox application to Government of Johns: इस अर्थन की प्रतिकार मानिका कि मोदिलील गामि है, के बीच उत्पन्न सुरक्ष समितिका. 19.4 को बाग शिक्ष के उसमा परकृत के अरावर ने प्रतिकारी की किया सहस्र के किया के बीच कि किया के प्रतिकार की किया की किया की किया कि किया के बात की दिन्ती 1000 के किया का मानिका की किया के कि विभिन्न कि अरावकार के किया के किया के किया की किया के कि किया के कि किया के कि किया के किया के किया के किया के किया के किया के किया की किया के किया की किया के किया की किया के किया की किया कि किया की किया कि किया की किया कि किया की किया की किया की किया कि किया की कि

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बारता के बाहर कियाँ एक्ट्र का श्रेष को कियल कर की एक के भिक्तियाल में पहुंबल करके नारा पर अभी एके केक्ट्रेय एकाए कुछ के कुछ होगेरा, के बाहर के बाहर किया के पहले किया के उनके के किया के किया के किया के किया के किया के समाविक्तियाल की किया के किया क किया किया के किया किया किया किया किया की किया किया किया किया के किया की एक किया किया किया की किया की किया किया ii.

क्षेत्रे क्रम्बद्ध राज्याच्या भागमत्त्र विकासम्बद्धाः अस्ति । अस्ति । अस्ति । स्वति विकास विकास स्वर्णे । । La grave : (१) - (१) exposited consider in the exposure : Newtoning Control : स्वर्णे अस्ति (स्वराज्यात कर्णे केरण्

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उपरोगाः अवेदन को वो संतिता स्था प्रथमा ८८०, है, तो का केकोम इसकार कुका (हरोता। विस्थानको, ७८७.. के विस्था ८ के इसका विकेशिक है, इस कोश के स्थेप के से १८ के ने संति के अपने विकेश सम्बद्धित के प्रथम के से बन अद्देश प्रश्निकों अधिक की दो प्रति के नेतान की बन्दी पाहिंगा चार है के बीच उपयोग पुरुष सकी हैका। 1564 की मास १० ८८ के दाख की दिस पुरुष की इसकार के क कीर का 15 की बीच है इसका को पार्ट का 15 की था। 1--

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प्रति हुए सामा और हो हुन का आप हुन हो। है हो सामा आदेश है हिन है हुन आप है है है है है है के अपना महिना अन्य के किया अलग आहेशे। हुन नाज में की है। हुन नाज महिना अन्य के किया कार्य के करते हैं। हुन नाज कार्य के कार्य के करते हैं। हुन नाज कार्य के कार्य का ıΓΥ

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र्वेजा भूजा, बल्होब हरवाह भूजा हर्ष हेंबाका सर्वेडोब स्वयाधिकार (कार्य बिधि) विकास में 1891 में बर्जिन को हरवा होडिंग्स हानाई। को समितिक जाने ये में दिवेंती में और को प्राप्त कार्योंने जिया साम दें। ये भारत के कोट 15, 1855 के तिकार के 150 किया माने 1965 कार्यों माने 1965 के 1965 के 1965 के 1965 कि 1965 किया क माने 350 किया के 150 कि 150 कार्यों के 150 कार्यों के 1855 के 1855 के 1965 के 1965 के 1965 के 1965 के 1965 के ıF.

हम्म अपेबार परिकार को ज्ञान करिन भरत के लेकिए स्थापन जिल्हा और तर्वकान राज्यानों के लिए, तर्पणार्थ विकारिक वेबनहर स्थापनीतर कुन्त के के देख बनके हैं । For the elaborate descript कोई किरान साम्यक्तार को स्थापन के देखार, रिकार को किरान के स्थापन आपने किरान के सम् 1.3

:: ORDER IN APPEAL ::

M/s. Renalesance Corporation Httl. Survey No. 445. Willage Brimesar, Taluka: Anjar, Dist. Kutch (horomafter referred to as "the appellant"; hay filed propert appeal against Orders-in-Origina No. 57/ADC/2013 dated 30.07.2013 (hereinafter referred as "impugned order") passed by the Additional Commissioner. Central Excise. Rajkot (hereinafter refermed to as "the lower adjudesating authority").

- Brief facts of the race and that the appellant is manufacturer of Polyester Staple Fiber and Polt Rokes falling under Tariff Item. 5503-2000 and Tariff Item 3915-9042 respectively of the Ceronal Excise Tariff Act, 1985 (heroing/for referred to as fulfie CFTA1) was clearing the same or payment of appropriate only upto the month of March, 2009. The appellant vice etter cated (0.04.2009 (received by the department on 15.04.2009) informed that their Phalipporluce viz. Pet Fiber (Polyesier Staple Flour) is the product of plastic and therefore, is classifiable under Chapter Heading 3907 Instead of Chapter Heading 5503, as sone by them sartier; That Notification No. 4/2006-CF dated 01.03.2006 granted [Niii] rate of daty for the goods falling under Tariff Item 3907-5030 of the Cetta; that the appellant accordingly cleared Polyester Staple Fiber at niii rate under Notification No. 4/2006-CF dated 01.03.2008 (Sr. No. 78).
- 2.1 Regarding their another final product viz. Fet Flakes, the appellant vide letter called 70.06.2009 (received by the department on 72.06.2009) informed that Pot Flakes are being processed from waste and screep of plastics and in view of Sr. No. 78 of Notification No. 4/2006-tib dated 31.03.2005, Pet Flakes is class fishle under Chapter Hearting 3912 instead of Chapter Hearting 3915. The appellant vide letter catted 25.06.2009 again many that Pot Takes were correctly classifiable under Chapter Heading 3907 instead of Chapter Heading 3912 as stated in their earlier letter catted 20.06.2009; that they availed Nil rate of duty under Sr. No. 78 of Natification No. 4/2006-CE dated 01.03.2005 and cleared the same at NII rate of outy from June, 2009 onwards by classifying PET Flakes under Terriff Item 3907 9990.
- 2.2 From the summing of ER-1 and other records, the opportmental officers found that the products 'Polyester Staple Riber' and "Pot Hakes' work rightly."

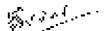
Page No. 2 of 1

classifiable appear Tariff flem 5505-2000 and Tariff Item 3915-3042 respectively and therefore, they were not digible for issuefficial exemption Notification No. 4/2005-CE cales 01.03.2006; that the appellant sought to classify the products under Tariff Item 3907-5090 and 3907-9930 respectively to wrongly available benefit of exemption Notification No. 4/2003 CE cares 01.03.2006 and not on correct grounds.

- No. V/GDHM/AR GDHM/ABC/182/2012 bottof 24.08.2012, which was adjudicated by the lower adjudicating authority vibalithe moughad order, wherein he classified the "Potyester Stapic Fiber" under Tariff Item 5503-2000 and "Pet Hakes" under 3915-9042 of the CETA; confirmed demand of Rs. 20,19.838/-under Saction 16A of Central Excess Act. 1944 (hordinalter referred to as "the Act"), rood with Rule 8 of the Central Excess Act. 1944 (hordinalter referred to as "the Act"), rood with Rule 8 of the Central Excess Rules, 2002 (horomafter referred to as "the Act"), rood with Rule 8 of the Central Excess Rules, 2002 (horomafter referred to as "the Act"), rood with Rule 8 of the Central Excess Rules.
- Deing aggreed by the impugned order, the appulant professed the Ţ., prosent appear on the grownt that the impugned graen was based on all interconceived reading of Chapter 56 and Chapter 39 and was label to be quasired and set askie; that the lower edjuc coding authority had not approxiated the distinction between goods falling under Chapter 55 and Chapter 30 of CaliA; that the lower objectioning authority bug it to have appreciated that PET Siter. many fixed they there is not a result of chemical process but only a latternation. of shape of a orimary form of played by application of heat and pressure; that by Ignoring this distinction, the lower acjudicating authority tool obliterable the distinction, between the greats falling under Chapter 39 and Chapter 55 and virtually made Chapter Heading, 3907 inaquitory; that such interpretation is Impairmissible in law: that the lower adjustrating authority had and appreciated the definition of term (plastic) given under Capates Note No. 1 no Chapter 39, which is applicable to all chapters and goods under the first schedule; that definizion of term, fraan mode Flouri given under Charlet Note 1 of Chapter 54 is: applicable to all chapters and goods foling in first schedule; that in light of the केट्रा that the legislation; has provided Iwo chapters where-under Chapter 55 coss normalist at Poly Elligians Terephalalog II all the distinction between the two has to be ascertained: that they submit that under Chapter Heading 3907, the goods.

covered are those plastic which are in primary forms up, forms of which, the said. plastic can be reshaped; that on the other hand, the goods covered under Chapter Heading 5503, are in the nature of plastic, but roll in its primary form; that under Charlet Heading 5503. The pages aucht to have been commandisty transformed in their chemical composition by undergoing a knowledge reaction/ process: that the coops falling under Chapter 55 are chemically modified forms of plastic, whereas goods under Chapter BR are either primary forms onweste or agrees on such articles of plastic that are manufactured by the application of mechanical forces in order to put them in shapes; that disce its distinction is notices, it is apparent that the PET Aber menufactured by them is clearly a good. which arravers the digagription of TarlY (lem 3907-6393 and not 5503-2000) that the lower adjudicating authority had great in hubbing load the PET Bakes manufactured by them but of wasta and scarp of PET botaic is descifable under Tailff Item 3915-9042 and not under Tarth Stem 3807-6020; that Tariff Item 3915 3042 covers waste and screp of PET baltics; That while the inputs i.e. waste PET cottles would rail under the said heading, the PE. Hakes which are optained after crushing and gringing such contles can hever be cassified as wasie and strap of PFT bother; that in light of Chapter Note No. 5 to Chapter 38. PET Blakes are excepty primary forms of plastic classificate under Tar Tillem 3907, 5020; that the demand of buby of Rs. 20.18,838/4 on clearance of PEN Flakes is erroneque; that the lower actividicating authority had erred in applying the previsions of Circular pated 29,06,2010; that they submit that the said Orgular is less fects incorrect since, it is issued without noticing the essential distinction between the PET Fiber obtained after a mechanical process and polyester Staple Filter obtained after a chemical process; that first and foremost in light of the distinction pointed but by them, the lower adjusticating authority ought to have taken a different view rather than blindy following the said Circular: that a Circular under Section 378 of the Act. is not binding on the adjudicating authority who discharges the quasi-jusidal function as distinguished from an administrative function; that even otherwise, considering the fact that the sale Circular did not consider the decision in the motion of GPI (Polyfill) Liqu reported as 2005 (183) IDT 27, which is uniformly eap cable; that the Humble High Court of Dolhi in the Tudgment Haled 35.09.2010 passes in Wite Penton. (Civil) No. 5454 of 2010 (in the matter of M/s. Salva Taxtavs Ltd. & others V/s. Union of Tridia) had set aside the Paragraph No. 10 of the sold Charlet.

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- The appellant also concented that in the light of the above observations and observations made by the Hamble Supreme Court of Endio in 2012 (275) FLT 551 and 2000 (12) STR 416 and 2006 (194) ELT 11, it was incumbent on the lower adjudicating authority to have given finding on the fact as so the applicability of the Circular to the facts or the present case; that the Ending of the lower adjudicating inclosely that since the Circular is not quashed by the Dalhi High Court, it remains as princing is dearly encoded as that the said director illegal and the lower adjudicating authority is *Extinct* contrary to low, hence illegal and the impligned index is inflated on this ground; that the lower adjudicating authority had enced in retraphying the ratio of the Judgment in the matter of SPL Polytils Ltd. reported in 2005 (183) ELT 27 as the same a dearly applicable to the racts of the present case; that the impugned order is therefore, contrary to law deserved to be quashed and set aside.
- The appellant further uncreased that the lower adjudicating authority had erred in disparding the technical opinion given by the Chemical Examiner of the Custom House laboratory vide letter dated 06.03.2011; that the said opinion is hased on examination; that the said pointing is a condusive evidence that the classification done by there is correct; that the lower adjustication authority has eined in not appreciating that the goods manufactured by them and experted by the marchant exporter, which were ildeared by oustoms authorities for export. with the same classification as is preferred by them; that there is no good reason. why the classification under CETA should be different than the classification. under the Guston Act. 1967; that the classification under the Custom Act, 1962. is a contemporaneous proof that PET Flakes being distribution. Chapter Heading 3912 and PET Finer being classified under Chapter Heading 3907; that the lower adjudicating authority energic holding that process of manufacturing, in the facts of the present case, would not be determinative of the classification. of goods; that their goods are distinguishable only on the basis of the process. undergone by them during manufacturing; no other test can be applied for the purpose of classification; that even if the fest of applicability or apparent description is applied, the goods in question would be itently classified by them; that the lower adjudicating authority had ested in confirming the demand of Central Excise duty amounting of Rs. 25,49,838/- biturcated on the basis of ER-1 forms filed by the appellant as Ro. 20.03,638/Hipeing the buty payable on Peti Flakes and Rs. ZERO being the duty payable on Pat Phen: that the lower

 $\sup_{t \in \mathcal{T}_{t}} \lambda_{t} \int_{\mathbb{R}^{N}} (x, t') = \lim_{t \in \mathcal{T}_{t}} \operatorname{Hope for } (0, x, t')$

adjudicating authority had grossly errad in imposing penalty of Rs. 2. 9kh on them; that this is not alkase which, by any streeth of imagination, falls within the ambit of a willful default or any attempt to evade payment of outy; that they had informed the department of its intention to change the classification; that they had filled ER-1 forms declaring the classification of goods; that the department was aware of such classification and no suppression of facts or malafide can be a egec; that the imposition of penalty is also vittated on ground that PBT Hakes and PET Fiber exported by the appellach ower classified under Tariff Ifem 3907 6020 and 3907 6090 respectively; that even otherwise the impugated order is contrary to law and facts and deserves to be quashed and set aside.

- 4. The appellant olde tetters pated 14.0±.2019 and dated 07.02.2019 submitted that regime arise appeals involving classification of the product are still pending before the Hon'ble CSSYAT, Anneceded.
- 4.1 The appeal was koothin Cail Book on the ground that the appellant cartifiles appeal on similar matter, which were pending before CESTAT. However, this appeal cannot be kept in Cail Book as per clarification given by the Board vide Circular No. 1025/15/2016-CX dated 25.04.2016 and this appeal was, thus, taken out of Call Book for passing appropriate orders. Personal breating was granted to the appellant on 11.12.2018, 27.12.2018, 17.01.2019 8 97.02.2019 but no one appeared on the given cates and hence, 1 proceed to seckle this appeal pending shop 2013 due to Call Book procedure.

Findings:

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- 5. If have carefully gone through the impugated order, appear memorandum and written submissions made by the appear or The dispute involved is whether the items "Polyester Staple Fiber" and "PST Hakes" manufactured by the appellant should fall under Tarlif Item 3907 6090 and 3907 9990 respectively as delined by them or It would fall under Tarlif Item 5503 2000 and 3915 9042 respectively as delined by the decirion of the decardment.
- 6. It is fact on record that the appellant manufactured and peared "Polyester Staple Fiber" and "Pet Flakes" on payment of appropriate duty by classifying them under Terlif Clem 5503-2000 and 3915-9042 respectively upto Month, 2000, However, the appellant classified "Polyester Stople Higher" and "Pet Flakes" under Lariff Item 3007-6060 and 3907-9990 respectively and cleared the same at all

 $= \lim_{k \to \infty} \frac{1}{k!} \sum_{i \in \mathcal{A}_k} \frac{1}{k!} \sum_{i \in$

rate intiduty under Notification No. 4/2008-CT (INERT 51.03.2005 (SR. No. 78)) from April, 2009 provents and from June, 2009 provents respectively.

- The appellant argued toat they having recycling plant of plastic, wherein clastic conties waste/some were injure and out of such waste, they manufactured "Polyester Staple Pictal" and "Pel Flakes". I and that the appellant first collecting waste/scrap of plastic bottkis, which after removing of the non-cet materials and thomater with subsequent events of grinding washing-drying-croshing extrusion making of Takes-conversion of rlakes into some iguid form-linen converted into filamany/fibor. The appellant submitted that these products classified under Chapter reacting 3907 all over it country and no uccumb authority taken any deverse view regarding its classification. The appellant also submitted test report of Customs Hoses Submitted for Chapter 39 of the CETA and viewed If at the Pet Flakes so precessor may appropriately be covered under Tariff filem 3907 3099 of CETA.
- 1 aniff Item 3915-3012, but the appellant considered roles in primary forms vizinger Fakesh and "Polyaston Stupio Tiber" and argued that it will be under Chapter Heading 3901 to 3914, wherein disprimary forms of plastics have been described. If Sind Iteat, to ensure similarity in the matter for displication of Polyaster Staple Tiber, polained from PET scrop and waste bottles. CREC vice Circular No. 979/19/2010-CX cated 29.08.2010 carried that the product is classifiable under Tariff Item 3503-2000 and chargeable to central excise dusy, usually ke to reproduce the said Capillar, which is as under:

*Subject : Classification of Polyaner Steple Filter manufactured δW of PFT scale and unique bottom.

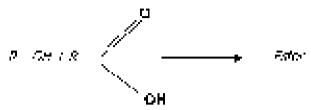
- 2. It was been brought to the notice of the Roard Not divergent practices are boing whythat in respect of classification of the Polyastar Staple Libral manufactured out of PUL same and waste bother. Wherear is some judicialities the sold product has been desired under the Couples PO as arried on plasma, in other puredictions the same that been described under Chapter Heading S9030000.
- 2. The martier new treat examined properties is "Long-Olah polymore alternically compared of at least 65 parametric warper of an exter end a conjugate electric study as screpning and "Ledensi Tracia Commission (Although Rolphston 1900 : A manufactured other in which the fixe farming substance is any long-Olah synthesis project compared of a basis 85% by unight of an extension a substitution examined curiously such metabolic

(1) A (2) A (2) (1) A (2) A (2

In monates of powers conferred under section Nb of the General Enter A0, 1944 Central Board of Factor B. Curtonia considers it necessary, for the surposes of conformity with respect to considerate of "Polymber Septe Fiber" manufactures and of PET scrap and world harder, in home the collecting historistics:

Let not restricted to substituted length likely matrix, of R 0.00 GHz 50.0 $\hat{\rho}$. and parametrizated hydroxy-perasonal units, p_0 =R=0+0+0- $\hat{\rho}$.

4 Normally PSI is manuactured by using mean injury like FLA 3 IEES. The name 'polyrether' rather to the lineage of soveral managemen (estima) within the liber. Livers are formed when electral reacts with a curbonitic end. The monomer externition is actionable and involved advance conditions to obtain polyrether.



. .:

6. The most common polyector for asymptor simple tibre purposes is only felliplene terestifialate), or simply PET This is also, the purposes make for many and other and it is becoming increasingly common to recycle them ones use by re-making the PET and extrading in as fibre. To magnificture Pulpasies stopps fibre, used PET hartes are some as injects. They are consider and converted into PET takes. These PLs belief are then charged to estructes where they are maked and maken polymer is passed through splannings to other the received and not other afterest singles to obtain assignments to other the passed to obtain

S. Angel (Degree State 2 to Object 54)

- Throughout this Schoolin, the rem: "menimude libres" means emple fibres and Bymeny of property polyment popularies by meninflictioning processes, other :
- (a) by polymostation of organic managements a produce delyment such as polyments, polymenters delyments or polyments, or by chemical modification of polyments, polyments produced by this process (for example, poly (vinvi simples) produced by the hydrolysts of acity (vinvi scenae)); or
- (ii) by dissolvation or discribed invaluent of natural organic payment flor exemple, cellulose) to produce polyment such as cognisional region report (county) or viscoso rayon, or by consistal modification of natural creams polyment (for exemple, celluloses cessed end other projects, or which is kill). In particular projects and collusion accessor or eighnotes.

The terms "hyphriche" and "arbheat", used in relation to fibres, means synthetic libres as defined as (a); arbheid fibres as defined at (b). Ship and the little of heading 5.0% or 5.00 are not considered to be man-made fibres.

The square frago market, "synthetic" and fartitioist shall have the same meanings when used in relation to "textile materials".

A. Thus intermode files our by climinal within starting from monamers or from polyment from The process or manufacture is not determined by if the classification is the menufactured product. What is essential for determining the description is the nation of the and product and the market understanding of the said suclipication. In the present case there appears to be no disjuster with region to the nation and commercial understanding of the product on Polymers Starte Libra.

As par technical barrature area of Polyester Figure 304 34 898034.

- Algorithm Respiration of districts
- Figure 1 considency : Curvey, Philadelphia Philadelphia Const.
 Visit Considence and Considency

5. From the above fixing it is quite coldent that the product under consoliration is nothing four a restile majorial and hence will be classified as restile majorial under Section III and bother of places in Coepies 19.

38. Indicated decrease as case of CRI Pointile Ltm. (2002, 1202, 1202, 120, 120, 120) which has substantiated for the mass case and hance cannot have brinding proportions in other metaers.

12. To ensure uniformer in the premier of expediention of the Polyecter Brapic Plant abtained from PFT ROAD and state Politics of it signified that this product is conscale developed auto-heading 2000/2000

(Empress supplied):

- 6.3 In view of above, a hold that the product "Polyester Staple Rhen" is correctly classifiable under Tab." Item 5503 2000 and the appearant is directly; (σ) μλη αρφοριταία αντικέ exercise dues.
- 7. For PTT Bakes, the approfact cabred devailed on under Tariff (con 3007) 9890 whereas the department proposed classification under 3915 9042; shat Peti-Flakes manufactured but of periodulles acrassistative after werhing, removing of imputities like mad eta is otwatet under Tariff Dem 3507 9890 and not engart 3915-9042, which is means for waste, per tigs and scrap. As per Chapter Note 31 to Chapter 39. Chapter Heading 3301 to 2911 will apply only to goods of a imesnd. produced by chemical synthesis. The apparant rurbier submitted that liney have: not carried but any emerical process for manufacturing these flakes, Consequently, the expellent palmed that Pet fishes would be excluded from their purview of Takif Item 3907 9890. I find that the appellant had passified Pet-Hakes under Gradter Heading 3915 Ligita 20.06.2009; that as per Chapter Note 7. to Chapte: 39, Chapter Heading 3515 coss not apply to waste, parings and scrapof a single thermoplastic praterial, transformed into primary financi (Chapteri Heading 3901 to 3914). It is a fact that prior to 20.0.2009, the appellant dailred. classification under Chapter 39 and hence to claim change in classification from Chapter Heading 3915 to 3967, the appealant was required to demonstrate. compliance with the requirement of Note 7 to Chapter 39. However, their appellant has not produced any evidence to show that westerand strup of PET. bottles used by them to manufacture Pet Hiakes was of a single thermoclastic. material and were produced by oceanical synthesis and having railed on this arrigant, their claim for classification of Pet hakes magutactured by them during i The derigo under consideration under Tariff Item 3907 9990 cannot be accepted. Consequently, I hold that Hashailation of Pel Plakes manufactured by the appellant during the before under consideration shall be $70 \mathrm{nff}$ (50.5,9042.1
- find that the depellant vide letter cated 29,06,2000 bod informed that they changed classification of PET Bakes under Tariff from 0907 5990 and hence, the SCN and the impugned citter have been insued. However, in the grounds of approach the approach argued to classify Pel Bakes under Tariff Item.

 \$\int \capprox \cap

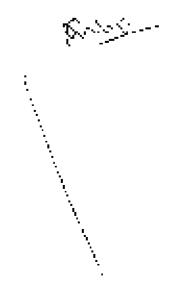
3907-6020 and hence, it is to be decided whether Pet Hakes should fall under tariff Idem 3915-9042 or 3907-6020. It is a fact in this case that the appellant used waste bottles or plastics and dailined to manufacture "RET Flakes"; that Tariff Tiem 3915-9042 reveals that it pertains to waste, paring and sured of clastics of Pet Bottles and whereas Tariff Item 3907-6020 pertains to Poly Ethylene Telephhalale in primary form having an intrinsic viscosity of not less than 0.64 pt/g and not greater than 0.72 dt/g. I End that the Chemical Examiner, Grade I. of Customs House Laboratory. Kandle in his report A No. KBCL/20/10/200-11 dated 08.02.2031 reported as under:-

graphs Filtra Pet. Flexos, mude from per periodides was wascan.

The "Manufacturing Program" for polyeour stagle libration fights was studied on local agists a souther was studied.

In first stap, the non-pot magnitus are carroved from the compacts put to the spray water, below and passed through wet grinding machine, in this process, light pushes are particles, and then subjected to fination watering. How digates the obtained and fod this appears to remove moisture completely. Her flakes are then fed to extend respect, worth appears the flakes into viscous form on a sentilliqued form.

jus liquid passes through continuous polymer filter (0.8.6). New, purified meabile polymer gasses through spirmeous, which is later abovered, the framents, which are questions



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brough throad six naking and that, you is not below to the place are ordered in terms followed are probabled onto the color factor of any five-races in only according to the early although the probability of the probabilit

The scales has produced and server, goes to the construction, supply knowledges for particular tradesities making the first industry wereholder.

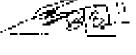
They in it constituted from the state with manufacturing where we have an expensive in the first property of the constitution of the constitution

Since polyment steple fitte material and the per explicitly action in the entering of the group seriopments than Section is preparable that the experimental and the entering of the experiments.

have be divided but the most output of Cromus: process with the polynomes and the process but the milest december 3 data.

Something in view for above transmed that of per note moniforming it is not being the rapid that prepared by the méthod is not covered under the testimic to of covered attack that are testimic to of covered attack that are testimic to the covered transmit polyety are according to the polyety and according to the polyety are according to the polyety and according to the polyety of the covered transmit tran

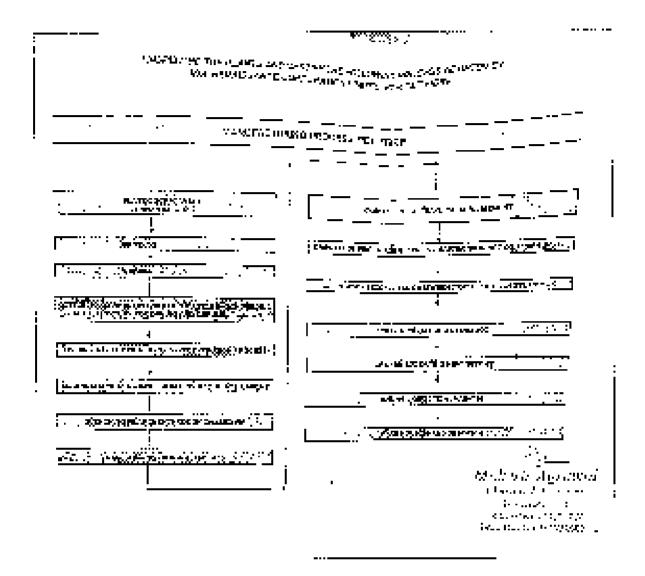
As regards the put it sizes in compared, it is ready that having accomb an one processing expension paking the per finished it is ready, agreement with the direction tests 5 of views in the Control Backs Testiff of Act, 1985. These Company is risked at the Acres Sang Bulget ratios in property by agreement under 8H 1985-9996 of CETA.



7.1.1 It can be seen that it has been calegorically stated that the waste of Pel Bottles undergoes for friction wasting and then passed through werightning machine to obtain flakes; that Pet hakes in the hishufacturing process are placed at pre-inclining alogo, which establishes that if its not converted into movempolymen form and no process of exempa; synthesis takes place, image of Figw.



thank partition by Chartered Engineer in the submissions of the appellant is reproduced below:



7.1.2 Thus, the flakes which are inferred in in the said report are not converted into primary form of the polymer and it transpires in a. The people are metally grinded and deansed to convert into physical ions of FLAKES. How Chart are able in the records before me and the process carrated by the Chemical Examiner do not suggest production of any primary form of Poly Ethylene teresthalate. Report of Chemical Examiner does not refer to any intrinsic viscosity of the goods and hence, the claim of appellant is not based on facts. As negative classification opined by the Chemical Examiner, I had that he is not entitled bedde classification, where is to be besided by furtisticions. AC/DC on the basis of facts and all records inducting report of Chemical examiner if any. I rety upon the Henrice Tribunal's decrease in the cases of M/s. United Industries reported as 2994 (70) 8 11/41 (Tribunal) and M/s. Cordo (I) Rv. But reported as 2901 (128) RT 513 (Tri-Ca), wherein it was refer that furtisdition to discide classification of a product lies with the imperiod idea of the Costral Excise.

Sage No. 18 of 19

- 7.3 If further find that Tarith term 3907-8020 refers to specific parameters of intrinsic iviscosity between 0.63 dl/g to 0.72 al/g of the PSV Ethylene Telepinalate. Thus, no evidence is available on record to prove that the product has been obtained by converting secondary form into primary form. Hence, it is not established that PET Flakes of the appellant lare regenerated polymer in primary form. Therefore, decisions relied upon by the appellant is not applicable in this case.
- The appearst submitted that they were, series, tradvertently dessitying 19ct Figkey' and "Polyceter Staple Tiber" under Tari-Titlem 3915-9042 and 5503-2000 respectively. If find they the process of obtaining negistration for a manufacturing unit by declaring manufacturing process and product dessification in the registration is not a more formality but is a fact to decide classification of the products being manufactured/to be manufactured. Therefore, emilaterally changing the classification without any material change in the inputs or manufacturing process is a wrongful add on the part of the appellant and appears to have been done with Intent to avail exemption any how and in the process, they have contravened the provisions of Rule 6 of the Central Excise Rules, 2002. Therefore, 5 do not first any infinity in the hopograph order for enposing penalty on the appearance HSs regard.
- 3. In view of above, 1 uphord the impropried order and reject the appeal filled by the appellant.
- ९ अप्रेंट कर्ना द्वारा दर्ज को गई अमीत का निपदार उपरोत्तत तरील से दिया आता है .
- 9. The appeal filed by the appellant stands discoord off accordingly.

Bay Way May

(कुम्मर संतीष) ५७ल आयुक्त (अपीरस)

By Regd. Post A. D.

To, M/s. Renaissance Corporation Ltd., Survey No. 445

VIIIage SHIMASAR.

! Taluka: Anjar, Dist Kutch |

्रिये रेन्छ्स्स कार्लेश्यन लिमिटेस १ सर्वे ने ४४५ गुंध - धीमारार लिहुक - अंजर : जिल्ला - कच्छ



Capy to:

- ি) The Principal Chief Complistioner, CGST & Central Exclos, Ahmedahad. Zone Ahmedabad for his kind information picese.
- 2) The Commissioner, COST & Central Excise, Kutch Commissionerate, Generaldram for necessary action.
- The Arsistant Commissioner, CGST & Central Extine, Division-Anjar, Gendhidham for necessary action.
- 4) Guara Hie.

