

ं नगरन अनुसा (अमीरम) का अभीरक, कहा एक्ट तेका कर और केलीन जाताह कर है. D/OTHE PRINCIPAL COMMANDER OF JAPPEN ST. 64T (\$556 THA), 640, 54.

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KCH-EXCUS-APP-000-036-037-2019

अदेश का दिलाम ८ Date of Order

11.03.2019

बारो फर्ने जी एर्टेब्र (Cat- of jasues

10 03 2019

कुमार मर्तेष्म, प्रथम अध्यक्ष (अगेल्स), राजानीट हारत परिभाग Pessed by Shri Kumar Santosh, Principa, Commissioner (Appeals), Pajkut

केरिक में पुरर्श को प्रकार कर कर एक है एक्षापक सामुक्त, बेमरीन एक्सर कूला में नामक प्रमान गई के एक ह

्राक्तेष्ट स्वयंत्रात्र साम्राज्यसङ्ग्राह्मात्रीत्रीत्र स्वर्णकार्यक्षेत्र स्वयंत्र स्वयंत्र स्वयंत्र स्वरंभित् Arking out of active monitorial citie names for Arkingalt Monter NyVersonia Commercial Cymra connection (A.). ForbultStatements (Centifying) (

अमोरकारों के प्राप्ति के कर के प्रमान Noma & Address of the Appellants & Respondent क

M/x POYF Ketel Speciality Catalyst Put. Ltd., Plot No. 2, Brock F, Sector 12%, Adam Part and SEZ, Mumdra 4' dea 370421.

কে এইপ্ৰিট ৰ' নিজে বিভাগ শৈক্ষাকৈ বিভাগনিত হয়ক সাংস্কৃত সাহিত্যটো ই সাহায়কলেক সভা সকল কৰে। বন একে। ইন The APPLIES IN THE PERSON WERE THE RESIDENCE OF A CONTROL OF A CONTROL

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ा में कर देखा क्यों ए महें सीए पुरा, हे कीम का एक पुरा एक वृंद्राक्षण को ने प्रशासकों था. की विदेश कि के कार क कर्ती के कुछ के भे सक्तरें का अर्थ के पुरस्कत्व विकास की विकास का है।

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भारत । और देश पुर्व के प्राप्त के क्यांस कर जो। भारते कींग पुष्ट क्यांस प्राप्त का प्राप्त कर प्राप्त कर अधिके प्रदेश देशीय कींग्रिक के प्राप्त के क्यांस के अस्तिक के अधिक की की की किया है। 1 : To the West reported conductor Community Exercised Science Text Appelland Internal (CESTAT) al., 2rd Floor, Bistample Bistamp Assists Assistant 8800 IS in case of appears of the text for the Warred Internal Report

क्रोंको स्वामिक्स सम्बद्ध असे करक् कर्यों के देव में जिसका अनुसार सेवन सेव 2000 में के नाम के वेटने <mark>निर्माण कि पर करवा क</mark> ्य का बार पहिला सामने किया कामा बढ़िए। एउन से बचार कर एक प्रति के साथ, बहुए स्वाह पुरूष के प्रति कर के किया कर पास कर पूर्ण कर एक प्रति कर एक करून रक्षमें का राजन करान का राम का जा अनुसार अधानक नाम के भी करायों भाग पुरस्कान मेरे मुख्यान राजियाचा १८००० याच को नेपारिक स्था एक को हो गोधा गर्ने । भेटारिक शांक का शुरूका अवैधित गर्नेको एक गोधिक का एका गांकवार सुंबद्धक के हुना से हिंगा और राम्पॅरेक स्थापंत्र के के प्रमाण मिल्लिक के प्राप्त के प्रमाण कार्य कार्यक प्राप्त के प्रमाण के के कि कि कि कि प्रमाण कार्यां कि कार्याक में के प्रमाण कि प्रमाण के कि को कार्यक के माथ 200 के कि कि कि कि कार्यक के साथ के क

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ம் சென்னனர் நேர்களின் நகுகளின் கொடுக்கு பின்ன விரும் இரு இருக்கு கொடிக்கு கொடிக்கு இருக்கு இருக்கு வடுக்கு சென் इत्युद्ध है बहु सहस्र का उसके दह करन पाप के हैं (हिन्दू अहिन की नर्क है) उनके की अब के में अबदार में है कि उसके हैं है। (1895) को कामे के काम में राज कर कि के 30 को की कोट काम की महिला असलाक काम लगा है कर कर का आहे. का का अस्तर का 90 हालाहरम् स्टब्स्ट (0) मान्यस्य ने प्रिकार ने प्रकार १,००१ मध्ये एक स्टब्स्ट स्टब्स सम्बद्धित है। या निर्माण करा मुख्य के प्रकार कर प्रकार प्रकार के का प्राप्त के प्रकार प्रकार प्रकार के प्रकार के किया के स्थापन के किया के किया के किया के की प्रकार प्रक्तिक के प्रकार प्रकार के किया के किया किया के किया के किया के किया के किया के किया के किया किया किया के किया क सम्बद्धाः स्टब्स्य स्टब्स्य क्षेत्रे स्टब्स्य क्षेत्रे स्टब्स्य स्टब्स्य स्टब्स्य स्टब्स्य स्टब्स्य करणा होत्य

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প্ৰক্ৰিয়াকৈ 1984 ক'লে 88 ক'লে দেশৰ (2) ভূ (2%) k কৰিছে কিন্তু লিকাৰ লিকাৰ টি দেশৰ বিশ্বৰ প্ৰতিক্ৰিয়া লিকাইছে क्रफ्रम् के क्रम्म सिक्षाच्या हता. ऐ. से की सामकृषी हुए क्योर कमा अकृत है और उन 1. असा अमार अमार अमार, कारण दास र **स**मा असा क्यूक क्यूंक की प्रमुख स्थल के अबले के एक की साथ के रहे हैं। यह दे कार का प्रश्न का का प्रमुख का का का का का क हैय कर को अबके दिया के दिन समाप्त कारण हो। जान का <mark>जिन की समाराष्ट्र की बोर</mark> में तथा पहलाई अपने हैं की हैं। dj The appearance, sub-section $Q(\phi) \in Q(\xi)$ of the ground the Shrance Add 100° is belief the first $\xi \in \mathbb{R}$ to ge proception contain that a per a 6400 or the Service Levi Forest, but 4 and shall be observed by a body. stiminento i Comminentina (Cost al Escésió di Commissionet, Commis Protes (Anneals) (che « l'Anna) a tallicar al perfiled copylights copy on the order passed by the information remainst the Assert Contrassions of Repays, Commissioner in Chartest Codine, Service Lead, builded for Louis Licht & Dept late, Tribune 111

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रक्ता । स**म्बद्धाः**

र्वेच्यून करा के को स्थेतिक स्थापन १९८८ के कि एक जिल्लाक है के किस्सार के के कि का कामा

न प्रोत्रक कर कि एक अपने के सामग्राम विमेश्न अप 25 करियमका 2014 के उपने के पूर्व विकेश के कि के कि के कि समय कि कार्यों के रमध्य भागी एक भनेता की पान, अब होते प

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सिर्ध्यक्रियो शहर क्रिकेट्स का Government of India: इस अबद्ध की प्राचित्र का प्रेय क्रिया के कामूल है, जैवार समाद साह स्थितिका 1984 की साम ३०৮∄ के प्रथम स्थित के प्रयोग मुश्कि, क्रिया का मुख्य मुल्यामा अवेटन हो को प्रयोग कर का उसके किया को बीच किया है किया क्षेत्र का के बीच की स - ee niidhe

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ORDERS-IN-APPEAL

M/s. DORF Keta. Specialtry Catalyst Pvt. Ltd., Plot No. 2, Block — F. Settor 12N, Adami Port and SEZ, Tal Mundra, Kurth — 373421, an SEZ unit (netaliafter reterred to as "kopellant") ifiled these two appeals against Order-in-Origina- No. 05/AC/RB/Mundra/2018-19 idated 27.4.2018 (hereinafter reterred to as "the impugned proter-it") and Order-in-Origina- No. 16/2018-19 idated 1.9.2018 (hereinafter referred to as "the impugned order-7") collectively reterred to as the impugned orders, passed by the Assistant Commissioner. CGST and Central Docke, Division-Mundra, Kurch (hereinafter reterred to as "the lower Adjudicating Authority")

¹ ∴ Order-ia-Originat No	Pariod involved .	Amount of	Retunn Rejected
, Water	·.	: mids	
1		₹5. j	. Rs
- 05/AC/RB/Mundra/2018-	January-2017 to	35,88,927/-	7,41,500/-
19_deted_27.4.2018	March-Züi7		
15/2018 19 datod	April-2017 to	31,46,219/-	4,94,765/-
<u>1.8.2018</u> ·	June-2017		

- 2. The brief facts of case that the Appellant, stuated in Munora SEZ & noising Service Tax Registration No. AADCO308BKSD001 filled refund claims as above, which were decided vide the Impugned orders, but partially rejected in terms of Notification No. 12/2023-ST dated 1.7.2013 (hereinaliter opierro) to as "the paid Notification") read with Section 11B of the Cottra! Excise Act, 1944 (hereinafter referred to as "the Act").
- 2.1 The grounds on which refund colors were rejected with the impligned orders are as under a

Grand	+ Impugned Urser–1	Inspugned Order-2
1.	<u>Ho</u> tel (grarges	Name Struck off / overwritten
<u> </u>	Service tax amount not montioned	Service tax amount not muchighed
2	Address of Mumbal Office	Address of Mumbel office
4.	No Address	No address
5.	Invoke not having registration	Handwritten name and address on
	Numger	evolse ,
	Involce Missing	Invoice Missing

3. Being agan eved by the impugned orders, the 'Appelland preferred these aspeals, into a ace, on the grounds as below :-



Impugned Order No. - 1:-

The appellant submittee that the refund has been curtailed on various grounds. We Service tax amount is not mentioned in few theology, as they had third party contract with their CHA, who had smanged transportation, dearing, cargo handling etc. for the services relating to export of yours, at Port on behalf of the appellant; that third party made payment on their bahalf to the service providers along with service tax and augmitted falls to them my reimbursament and the appellant claimed as the expenses, were incurred towards authorised speciations of their SSZ unit; that they had their administrative office at Marad, Mumbal; that their single manufacturing unit is at Mundra STZ; this, the service providers raised but at their head office at Mumbal but the appellant is usingle operational unit, which is in Muricia SEZ.

_ : .

Impugned Order No. - 2 :-

The appoint retorated the above grounds of appeal free in respect of the impugnes order—1, and submittee that the service providers generated sovoices in their lown formal, and only in 2, invoices there is overwriting and only in one invoice, name is changed, and entropy and they submitted details of such invoices.

4. Portonal hearing :-

Duning personal hearing, Shri Limesh Bhatt, Assistant Manager(Fir). reiterated the grounds of appeals of Appeal membrance and submitted. that they have CHA in name of M/s. H. Mangaldas and Co., who worked for them as per agreement dated 1.1.2016, which is still valid; that they paid/reimbursed expenses to their single point authorized agent for a in clearing and forwarding agency, transporters, cargo handlers, facight-Forwarders, etc., including Service Tax: that all these services have been uses in their SEZ unit at Mundra and hence, refund is allowed a for all their services used in orderations of SEZ unit as per Notification No. 12/2013-ST. daled 1.3.2013; that the services of hotel have been used for stay of them. personnel, engineers, etc. coming to their meaufacturing unit at Mundra; that the involces which have been said to have no address actually had address of Mundra unit; that few invoices having address of their Corporate office at Murrical: that though Service Next has not seen. mentioned on Bills of CHA aut Convat credit aggregate of Service Tax paid. is mentioned and each Gill is supported by the involces and also englosed.

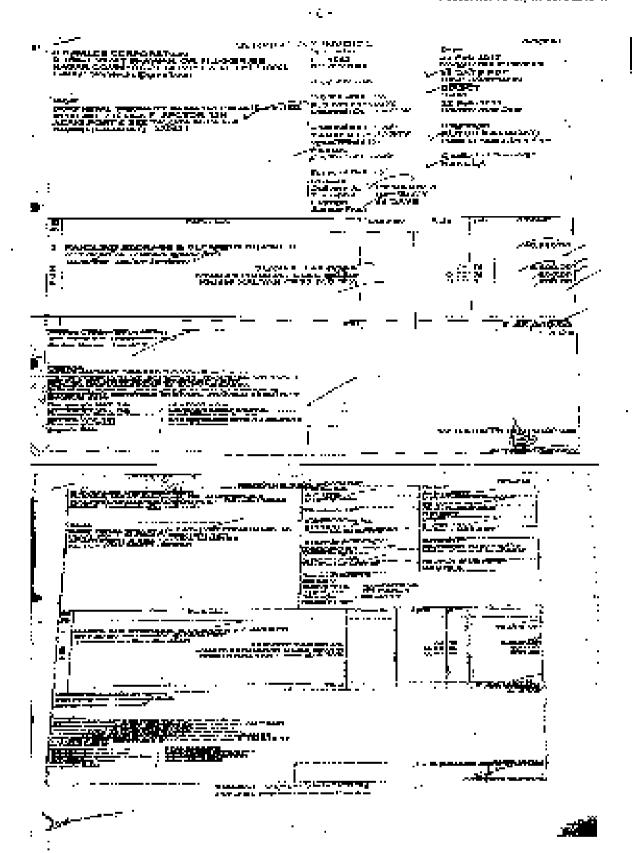
 $\sum_{i=1}^{n} (1 + \sum_{i \in I} (1 + i))^{-1}$

with Appeal Memoranda; that 3 Invoices said to have been missing are actually available and also enclosed with Appeal Memorandum and these involve Service Tax of Rs. 2,825/- easy; that written PH submission will be made by them by 27th Feb, 2019 or before.

DISCUSSIONS & FINDINGS :-

- 5. If have carefully gone through the fails of the care, the incogned orders, both appeal memoranda and the written as well as oral submissions made by the Appellant. The issues to be decided in the present appeals is whether rejection of refund of Rs. 7.41,100/- and Rs. 4.94,765/- vice the impugned orders is correct or not
- 6. I proceed to decide both appears on the basis of the aveilable records :-
- 6.3 Regarding refund of Service Tax of Rs. 5,919/- in respect of Inveites at Sr. No. 1 to 7 of Table at Para 5 of the impugned order 1 and of Rs. 5,494/- in respect of missing involves at Sr. No. 1 to 5 of Table-8 at Para 4 of the impugned order-2, I find that the Apperary could no substantiate as to which engineers had come for repairs of which machinery, etc. and hence, refund of Rs. 11,413/- can't be granted to the appearant and that been correctly rejected in the impugned orders.
- 6.2 Regarding two involves dearing No. STI963 dated 22.2.2017 6. No. STI703 dated 6.1.2017 involving Service Tax 8. Cass of As. 6000/ loach at St. No. 6 and 7 of the impugned order=2, the appellant has submitted scanned capies of the aforesaid invoices as under :-





- 6.2.1 If find that the involces have appallant cetalls and are for Handing and dearing charges and have been lessed by Mys. B. K. Sales Corporation and have Service Tax, SBC & KKC cetalls. Hence, refund of Rs. 12,000y- on the afuresaid involces needs to be allowed, as the same has been incorrectly rejected.
- 6.3 Regarding initialing invokes at Sr. Nos. 66, 69 and 70 of impugated order 1 involving Rs. 2,825/- of Service Tax, I find that the appellant has not been able to

submit even copies of Involces and Therefore, I have no option out to hold that refund of 8s. 2,825/- nee correctly open rejected by the lower adjusticating authority.

- Regarding missing involves at Sr. Nos. 53 to 59 in respect of the impugned. order-2 involving Service Tax of Rs. 83.361/-, I find that the appellant has not submitted copies of involces even during appeal and therefore, I have no option bus to hold that refund at Rs. 93,361/- Pas correctly been rejected by the lower adjudicating authority.
- 7. Regarding rejection of the refund on the ground that "Service Tex and *mankioned on It*", the appellant has submitted that they had enterpy into a Pure. Agent Agreement dated 1.1.2016 for relimburgement of expenses incurred by M/s. H. Mangaides and Company, their CHA on behalf of the Appellant, Scanned copy. of the said Agreement is reproduced as under (-)

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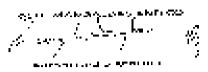
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I would five to take an illustrative example of Bill No. IMP/30566 dated 7.1 Z8.2.2017 (at Sr. No. 13 of Para 5 of the impugned order-1) raised by M/s. H. Mangaldas, and Company, Muintai (Nereinather rateured to as "M/s. Mangardas" for brevity) on the appellant as under 😁

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7.3 The documents very clearly show Service Tax, 500, KKC for which refund claims had been filed by the Appellant, which are summarized as under the

 		Service Tax	: sac	KKC
SSL logistics Pvt. Ltd	MUN/COLOCI (2015-17	3,047.15	! 733≦	73.15
CSU Logistics Pvs. Ltd	MUS/CG1574/7015-17	1,223.33	43.69	73.65
(G) Togetica Per Lot	MUN/091565/2015-17	1,769.09	98,00	28.96
C&L Logistics Pvt. 🖽	MUN/081364/2016-17	10,685.14	3./8 76	378.76
CGL Logistics Path (pl	MUN/CGL587/2015-17	4,827.25	153.6 5	161.69
_	•	21,171,97	7567.9	756.19
	Total Refund divined (3)	F.s. 2	2.584.35	

The above Bill (No. IMP/30866 dated 28,7.2017) is superioted by Involces of Service Provider and lithe appellant free refund paint of Rs. 22,664/- and on body of Bill No. IMP/30866 "Convert Crowlin Alwitable Rs. 22,664.27" has been written, hence, contention of the lower adjudicating authority load Service Tax is not mentioned is facturally wrong. On going transigh findings at Para 6, 7, 8 and 9 of the impugned process, 1 find that the eligibility of referred under Notification No. 12/2013-ST sector has not been disputed and return has power rejected only

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because M/s. Mangaldas have written Cervici Crodit, in place of Service Text, I cold that refund cannot be denied in buch ground so ong as goods under export is not disputed, services utilized for such export and payment of Service Tax on such are not disputed. Agreement in Service and payment of Service Tax on clearly mentions that "(1) Since the payment to Third Party Vendors will be made by the Service Provider, the liability to deduce and pay TDS will be on them, and (4) The Service Receiver will avail Cervial Credit of Service Tax on the liability in respect of titles of Mys. The appellant filled lefterid dains of Rs. 5,09,988/ in respect of titles of Mys. Mangaldas under the impugned order-2. I find that it is proved by the Appellant that they are claiming refund of service tax sero by them through refundurement to Mys. Mangaldas and these services have been used for the export of the groots, and hence, I have no option out to see aside the september orders and allow the two appeals to this extent (Rs. 5,09,388/- (P) Rs. 2,46,402 - Rs. 7,55,390/-).

- Regarding rejection of refund on the ground that *'Address mendaned to the document is of Munical inflice*' at Sr. No. 9,10, 23, 23, 28, 65, 68 & 71 of Para 5 of the Impugned index-1 (Rs. 1,50,551/-) and as Sr. No. 14,21.25,26,27,39 & 47 of the impugned order 2 (Rs. 1,09,376/-), the appellant submitted that their Head Office is at Munical and they have only single menufacturing facility at Mundra and Cherefore, refund cannot be rejected on this ground. I find that it is well settled logic position that substantial benefit cannot be depict on the ground that address mentioned on invoice is of Head Office. I, therefore, do not see any reason to uphold the impugned orders on this ground and set which impugned orders to this extent and allow appeals for Rs. 2,56,927/- in this regard.
- 9. Regarding rejection of refund on the ground that the invoices have 'Wo address', 1 find that the invoices at Sr. No. 22,34,50,53,80,67 of the impugned order-1 (for Rs. 62,575/-) and Bill at serial No. 12 of the impugned order-2 (for Rs. 7,500/-) list such invoices/bill. However, I intid that name / address of the appellant is very much mentioned on all birelevant call/invoices portaining to the impugned order-1 are reproduced serow :-

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B. MANGALDAS AND COMPANY

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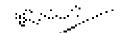
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Maria de la companya Page 40, 13 of 10

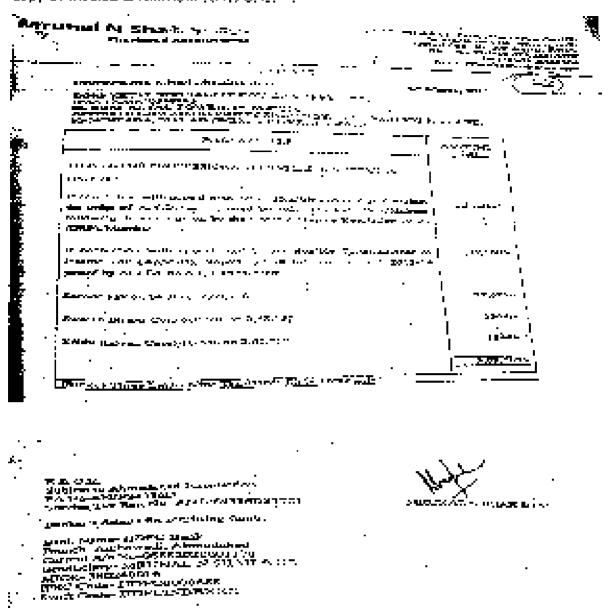
- 9.1 On going through the scanned copies of the relevant bits, it is seen that address of the Appellant is very much mentioned and I, therefore, do not see any feason to allow the impugned order 1 rejecting the refund on the ground that Not address is mentioned. It would be appropriate to add here that returns on 5 bills of M/s. Mangaldas cave already been held to be proper at Para 7.4. Since, Invoice of CRISIL No. 16205007268 dated 4.5.2016 shows address of their Head Office, refund of Rs. 31,504/- on this invoice has to be allowed.
- 9.2 Regarding Bill No. 2016 17-111 dates 21.2.2017 covered under the impligned order-2, I find that only name of the Appellant company is mentioned and address of helmer Mumital nor Mundra is given. Scanned copy of the relevant invoice is reproduced below :-

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- 9.3 The Appoiant has submitted that their inteed office is at Mumbal but they have only one manufacturing unit in India at Mundra (the expellent). In view of this fact, irefund on this Bill and ellow refund of Rs. 7,500/- and to the Appellant to this excert.
- 9,4 Regarding rejection of refund on the ground that the Invoke 195 not have registration number. Vide the imprigned index-1, the appellant has submitted copies of the Invoke which contains Service Tax Registration number. Scanned

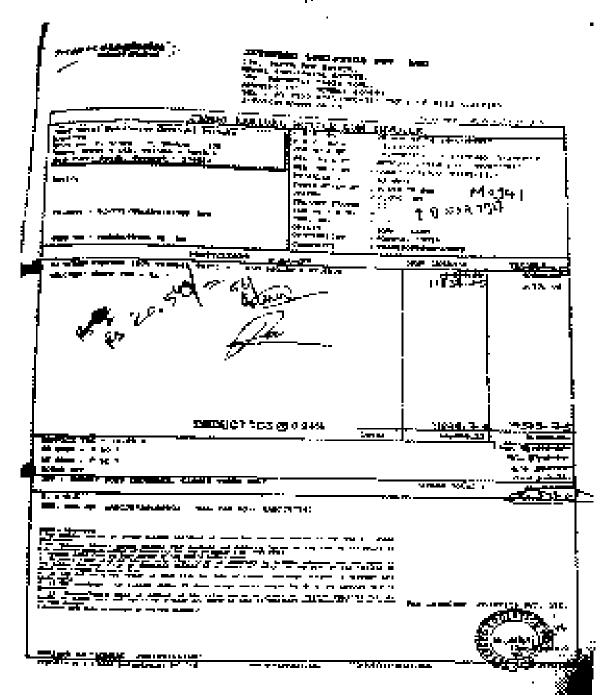


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- 9.4.1 I find that Service Tax Registration number AMPS433605T001 is dearly mentioned on the second page of three/se No. MNS/IT/83/2035-17 dated 5.3.2017 and therefore, I have no option but to set aside inejection of refund of Rs. 40,313/- on this ground and allow appeal to this extent.
- 9.5 Regarding rejection of referro or involces at Serial No. 31, 32, 33 and 34 of the Impugned order-2 on the ground that the pills were raised by the service providers for the freignt coarges but, the sepatiant found excess rate had been charged by them and on being counted out, the service provider convider connected the details manually. Scanned copy of one such illustrative Involce No. 15/MUM/SI/L5/16-17/03857 dated 10.3.2017 is reproduced below to





9.5.1 On going inrough above 'nvoice, it is seen that due to correction in service tax amount. Instruct daining or reduced. Thus, corrections are consider to other (aree 'nvoices also, the amount of service tax involved got reduced. I therefore, do no see any reason to allow rejection of refund of Rs. 4.544/ on this ground. It set aside the 'moughed order rejecting refund of Rs. 4,544/- and allow aspeal to this extent.

9,6 Regarding rejection of refund on the ground that few Invoices have "Hardwritten name and address," vide the impugned order-2, the appallant has submitted that they have their head office at Murroal and the appallant is linear single manufacturing unit and this fact was according during filling of the refued dains. The appellant added that the said bill is related to professional fee.

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- On going through above 6 % / find that eil details are printed, except address, which is hand written well-out any cole-writing. I find that there is no provision in Service Tax caw which restricts reform for writing name of the service. received by hand. The lower adjudicating authority was required in get the authenticity verified, however, he preferred not to verify it and reject refund dains without verification. In absorbe of any verification report, I have no option but to set aside rejection of refund of Rs. 26,038/- and sixtor fine appeal to this extortu
- To view of above, a reject refund of Rs. 8744/- (Rs. 5,919/ \pm Rs. 2,525/-). 10. and allow refund of Rs. 7,32,356/- in respect of intaugned order 1 and reject. $_{
 m SSG}$ and $_{
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 m SSG}$ 4,05,910/- in respect of Impugned order -2.
- अधीलकर्ता द्वारा दर्ज की गई अपील का निपटार। उपरोक्त तरीके से किया जाता है। 11.

13 July 2016

The appeals filed by the appellum are disposed off in above terms. 1

-आवृत्तत (अपीन्स)

→ negas No. 18 3/19

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By Registered Post A.D. To, M/s. DORF Ketal Specialty Catalyst Pvt. Ltd., Plot No. 1, Block — F, Sector 17N, Adami Port and SEZ, Tal-Mondra, Kurch — 370421.

पति :-

- प्रधान मुख्य आयुक्त वस्तु एवं सेवा कर एवं केन्द्रीय उत्यद्ध शुक्क, युक्कत क्षेत्र, अहमदाबाद की वक्रकारी हेत्।
- आबुक्त, वस्तु एवं सेवा क्य एवं केन्द्रीय प्रश्नाद शुक्त, क्रष्टक आयुक्तालय, कव्क को आगे आवश्यक कार्यवाही हेतु:
- 3) **स्टायक आधुक्त, ब**स्तु एवं सेवा कर एवं केन्द्रीय इत्यस्द शुस्क, अण्डल मुंदरा, अच्छ।
- 4), गर्ड फल्स

