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¢ېغ	्रितीय इ.स.स्टब्स्टन टिनीप तन	नाजी एक की सबस / 2 <sup>81</sup> Mos बे <i>स दिंग राज (Kose</i> Core क	ar. GST Bits		
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<del>.</del>	र्ट्स टान प्रयो <u>ग्राम</u> -	-			
6	्योः कडो्फ्यन् स्टब्स् योग्रहेत	en di la di Dicares		<b></b>	
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	वी ⊛याद गर्नाम, प्रयोग सासुका (अवारव), राज Isosaan ay Shet Yuraar Saasaan Galasaa	 त्वतेः हाश् + /			
-	ार अपन्तः सम्बद्धाः स्वाहतः प्रहासः अन्				
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	्यत्र हिंद रहे हो रहे हैं। स्टब्स् के रहे हैं। रहे के स्टब्स् के स्टब्स् के स्टब्स्	a again tana ing di ng panan Matén pang Cintan Intuk		भगवन्त्र स्थल	*****
	<ul> <li>A specific Granting Course &amp; Service S along Francisc Aux, LAP an epicol 20</li> </ul>	Tax Appellant, Printing, Under 20			
	कराजात रहकाक्स में परकार/ज प्राप्त गावले पंछा यह का प्राप्त हुई किसी, हुन की जाने प्राप्ति क	n gan daha wasa dan ili dalam	al de la G	es C D'r Ar, i-ces	ነ ተጉ
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-	अवैग्रामित प्रायम् अविराध शास्त्र भाषां का स्वतं स्वतं का स्वतं प्रायमे स्वतं कर्णात्म कि प्रायम् वर्णात्म स्व वृत्यम् स्वतं क्रमारा स्वतं का प्रायम् वर्णात्म स्वतं कर वृत्य ति (२३०) के रुपी का प्रायमें का स्वतं का स्वतं क राज्य का राज्य के स्वतं का स्वतं का स्वतं का स्वतं का स्वतं का द्वारा के स्वतं का स्वतं का स्वतं का स्वतं का	के उन्हों के प्रिय कि सिंह के कि कर के प्राप्त के का जिस्ता के कि कि कि कर के कि कर के कि से कि	(, , , , , , , , , , , , , , , , , , ,	<mark>й пров</mark> ать на поста editor : en el el recita editor : el el el el el el el el el el el e	А÷.
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	And Anton river of the realization of the second states of the second st	e <sup>ns</sup> he State hans of the turket. If the nature the first state	sing die Geor Maaring	6 - Firbs Tritty⊐a` Sala	ine il
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	अविंगान जिल्हा इन्हरू का उसके क्रिसिस, क्रिस अवि २ - इ.स. १९२४ - इ.स. (२०१४) में पर का उन्हरी एक इन्हरू सार्वे का साथ के बोर दूसके का साथ कर के इन्हरू सार्वे का द्वार के साथ के साथ कर कर के अधीर स्वारं के साथ के साथ कर कर कर कर कर का	्रे २ विकास सम्पत्ति का तीन सा इ.स. १९४४ - १९४४ - १९४४ - १९४४ - १९४४ इ.स. १९४४ - १९४४ - १९४४ - १९४४ - १९४४	ំ 1.6 ឆ្នាំ 3 <b>ក្រើ</b> ។	ने ने एकिसी, कर 8 जक <u>एक क</u> ्रिक्टिक ह	
	ા મહાત માટે છે. આ ગામ કે આ ગામ જ આવેલી તેને કે જ	हे. अल्ला राज्य का विवय के लिए के स्थान स्वयन्त्र के जिल्हा के स्थान के प्राप्त के स्थान जनस्य के राज्य के स्थान के स्थान के स्थान	विकास के साम । सर्वट के इंटरवारी, १ २ वर्ष के कार्य होणी	्र दर्ग् को गुन्दु ये के का वि वी. के राज्य र (1911-191 राज्य के विरुग्त 1971-1917	
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	<ul> <li>A second packar page second packar is a second packar page second packar is a second packar is</li></ul>	needen soo unigen degen het het in 1. aageeraal oog ook ook of ede 2. algebre die Storppol te weekeers 2. algebre de dee ook ook ook ook daar die gebreke opgevaar ook die die gebreke opgevaar ook die die gebreke ook ook ook ook die die gebreke ook ook ook ook ook ook ook ook ook ook	en order og av om sinde Lies over geste inderedet order versideren og forer i de reder of stor gesager et of stor gesager et of stor gesager et og i fører gesager et	e instant, in strengt Lings on Landen Versten in 1997 (State Landen Versten in 1992) La stat dig energie versten in 1997 (State Lings of the static problem of the From the static problem of the state instant state were finded of the Lings	
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- त्र प्रस्त के स्वति अग्ने अग्ने में स्वति किंग्रा केंग्रा सक को किंगे मारफ्त में भाग के का स्वति के भी भी अधार आकर भी से भी के अपने के प्रस्ति के स्वति के स्वति के स्वति के स्वति के सिंग के प्रस्ते के स्वति के स्वति के सिंग का का सि अग्ने के सिंग के कि स्वति के स्वति के स्वति के स्वति के सिंग के सिंग के प्रस्ते के सिंग स्वति के सिंग सामक के क अग्ने के सिंग के कि सिंग के स्वति के सिंग के स्वति के स्वति के सिंग के सिंग के सिंग के सिंग सिंग के सिंग के सिंग सिंग के सिंग के सिंग के स्वति के सिंग के सिंग स्वति के सिंग कि सिंग के सिंग के सिंग के सिंग सिंग के सिंग सिंग के सिंग कि सिंग के सिंग कि सिंग के सिंग सिंग के सिंग कि सिंग के सिंग कि सिंग के सिंग सिंग के सिंग के
- পাৰেল্য কৰল উদ্দান (LDS) কৰা উদ্দেশনা, এক বিভিন্ন কিছে বিভিন্ন কৰিবলৈ বিভিন্ন কিছে বিভিন্ন কিছে (LDS) কিছে বিভি কৰা কৰিবলৈ বিভাগ মন্ত্ৰ কৰিবলৈ মাজ বিভাগ বিভিন্ন কৰে। আৰম্ভ বিভাগ কৰে বিভাগৰে কৰিবলৈ মাজ বিভাগ বিভাগ কৰে। কৰা বিভাগৰে আৰম্ভ কৰি বিভাগ কৰিবলৈ বিভিন্ন কৰে কোনি বিভাগ ক সম্পদ্ধ হয় কৰা বিভাগৰে কৰা মহাবিদ্যালয় কৰি মৃতি বিভাগ কৰে। মন্ত্ৰী কৰা মাজ কৰা কোনো কোনো কোনো মন্ত্ৰীৰ বিভিন্ মাজৰ বিভাগ কৰা বিভাগৰে কৰা মহাবিদ্যালয় কৰি মৃতি বিভাগ কৰে। মন্ত্ৰী কৰা মাজ কৰা বিভাগ কৰা কোনো কোনো কৰা কোনি ক 11
- ana meny inee solar specific stationers (specific stationary set of the filling filling filling (s). In the sufficient Products in the India sectors to Papillan Printing Station (s) (s) and solar set of the set <u>: "Г</u>
- A second provide statement of the end of the interview of the interview of the second provided of the ا تر
- 32.
- প্ৰতিক প্ৰবন্ধ সিদাৰ নিজনীয়ৰ দিয়েইয়ে বিশ্বস্থান বিশেষ হৈ যে যি যি। আনহাতি কি ইয়াৰ্থ আৰু প্ৰদান কৰে কি বিশেষ হৈ ২০০০ চিটেই কি বুৰ ৫০০ চিৱা একে প্ৰথমিত হয়ে মুক্ত কৰা কাই ব্যক্ষিয় যে মাজৰা 1990 চনৰ মূল্য বিশ্বস্থা কৰে বিশেষ হয়। সিদ সকলোই বিশ্বস্থা মেটাৰ কৰি বিশ্বস্থা মেটাৰ বিশ্বস্থা হৈ যে কে বিশ্বস্থা হৈ যে কে ব্যক্ষিয় মেচাৰ মেটাৰ বিশ্ব এই মেচাৰ মূল্য হৈ যে সেটাৰ কৰি বিশ্বস্থা মেচাৰ কৈ বিশ্বস্থা হৈছে এই জনাই মেচাৰ মেচাৰ মেচাৰ মেচাৰ মেচাৰ মেচাৰ মেচাৰ এই মেচাৰ মূল্য হৈ যে সেটাৰ মাজৰা মেচাৰ মেচাৰ মেচাৰ মেচাৰ মেচাৰ বিশ্বস্থা হৈ যে মেচাৰ মাজৰ আই বিশ্ব সিংখাৰ মেচাৰ মাজৰ মেচাৰ ম  $\mathcal{M}_{1}$
- Construction of the state  $\mathbf{\omega}$
- না কৰিছিল ভাৰতৰ সময় সময় বাৰ্গনিয়া, 1995, মাৰ্ল্যস্থায় হৈ উচ্চত ব্যাহিত বাৰা ভাৰত এই মাৰী এই বাৰ পিয়াঁ হৈ আগ প্ৰশাহীৰৰ পৰা উদ্যাহ বিষয়ে য গ'ৰ প্ৰথম ক'ল্যস্থায় বিষয়ে এই এই এই এই এই সেংগ্ৰামণ কৰা বৰ্গনিয়া বাৰ্গনিয়া বুঁলাৰ বিষয়ে কৈ আগবঢ়া shake com প্ৰশাহীৰ প্ৰথম ক'ল্যস্থায় বিষয়ে আৰু বিষয়ে এই বাৰ্গতে আগবঢ়া বাৰ্গনিয়া বাৰ্গনিয়া বুঁলাৰ বিষয়ে কৈ জিলা ক'লে প্ৰশাহীৰ প্ৰথম ক'ল্যস্থায় বিষয়ে আৰু বিষয়ে বিষয়ে বিষয়ে বাৰ্গতে বাৰ্গনিয়া বাৰ্গনিয়া বিষয়ে বিষয়ে বিষয়ে ক 11.1
- ıΠ
- দেশ কৰিছিল পাঁচ বিহী গুলি গঢ়িল বিভিন্ন বিভাগ কৰি ভাইৰে জাইলে। উপস্থ এই কইছিলৰ ব্যৱহাৰ প্ৰতি হৈ বুলাই। পিঁচিৰ উ কাৰ্যক বিভাগ সম্পূৰ্ণ নামৰ প্ৰথ পিঁচ এই বেজাৰামেৰ এই কাৰ্য কৈ বিভাগে ব্যৱহায়িক কেন্দ্ৰ বিভিন্ন নামি মুখ্য বিভাগে হৈ বিভাগে কাৰ্যক লগে কিছ বিভিন্ন নিমাৰ বিভাগে আৰু এই বিভাগে ব্যৱহায়িক ব্যৱহায়িক বেজাৰ বিভিন্ন নামি মুখ্য বিভাগে বিভাগে কৰে বিভাগে কৰে ক 14-.



## CORDER IN APPEAL 11

Mys. Transword Terminals Privese (imited Bharat CPS) Zove-1, MPSE2. Mundra (hominalitie) (eliented to as "appeliand") filled potsion: appeal egainst Order-In-Orginal No. 25/00/2017-19 dated 26.1.2018 (homonalitie) referred to as "implighed order") passed by the Joint Commissioner General GST, Gardhidham (Kutch) (hereinatier referred to as "the applicating activity").

The brief facts of the case are that the appellant had cald service second 11 on/lift. 2 off granges of the empty and loaded containers from the shipping lines and transpondion of loaded containers from CFS to ponitieity and vice versa, however, not service tax was pare by the appoint on consponential of empty containers from Jerly io-CES<sup>1</sup> and vice versa by clairsing benefit of examption under Notification No. 25/2012-ST deted 20.6 2002. Statement of Shri Umesh Paridya, Assistant Manager and Authorizod. signatory of the appeliant was recorded on 19.2.2016 wherein he deposed that in case. of imponed grads, may charged service tax up if a mount-With on composite. service/bundled service ngit from transconstion of icadorf container fill taxing uf reported goods to the runks arranged by increaters appending the need of forego handling. service'; that in case of export of the goode. The exporters bring they goode for excort to appollantis CFS; that in most of the cases isince the appellant cas empty containers. ying st CHS. the appellant after uncaping the goods from exponents vehicles, shift, Shern in to the comply containers, lift on paper, containers and transport of loaded. containers to the political when they billed the experier composite charges including weighteen strange under the need "Excon Cargo Handling unarges" and discharged service tex; theil regardling activities of movement of carpty contenents from part to CFS. and vice verse, they righted to have provided service of transportation of amptycontainers and raised process and alternary amount of empty lift on/lift off charges and amount of transportation of entory containers separately and paid service tax on amount ( of C1 crefit off charges for movement of costsine's from part to CFS and vice versa, however they treated treasport of empty containers. GTA service and levailed exemption. as the sharges were bolow Rs. 7504; that in case of non-availability of containers into lift crylift of charges of en ply containers along with transportation charges, composite, involves were 'sound on exponents/CHA as lightpay containers for export stalling". Show Cause Notice No. DODE:/RRU38/23/2017/10 cated 01/0/2017 was issued to the Sopelian, cemanding Sorvice Tax of Rs. 19,77/8767 for the cericd from 1.7.2012 In-31.3.2016 Lode: Section 73(1) of the Tinamod Act, 1894 (herdinated referred to as "the Au?) siding with interest under Station (6 of the Action) Imposition of cenaty under Section 75 of the Apr. The impligned other confirmed Service Tax of Rel 19.77.875/ stong with interest and strategies cenaity of Re. 13 77,6764 under Section 78 of the Act.

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3 Boing aggreeue with the innerthed onten experient protoned the present separation that following group as

ж.

(j) The acporant charges froublinker the scattomers for movement/transport of emoty containers on which revoise mulge is applicable as per Rub 2(1)(c) of SonVite Tax Rules 1994 and Ver Texten Net 30/2012-81 dated 20.6.2012; that involves issued by the appeliant placeted that scatter nex faibility shall be discharged by the reoreject under reverse charges that to quality to be 9.0.4, any other determore which contain the details as required in a consignment index flip are put Grave and since, the appeliant reserved consignment index flips are put Grave and since, the appeliant reserved consignment index flips are put Grave and since, the appeliant reserved consignment index flips are put Grave and since is in the case of strate barged by 1rd reprind as 2018 7.01–404-0FRTAT DFC and Are Constitution reported as 2009-1101-297-0ERTAT-DEL in support of the total and

(i) The appollant submitted that yoying service tex on movement of Empty containers from 3.4.2015 deanot be construed as sociaptance of mistake and that the appolant still believe that they not concretely cased on the same as GTA service for the period under dispute that demonding service issuid, the earlie income how service provider would emport to double taxation and therefore service tex cannot be service from the appellant to double taxation and therefore service tex cannot be service from the appellant in respect of fields, house earlied by hermion which service resident; that the eppelant felled on decisions in the base of Gabine barries by the service resident; that the eppelant felled on decisions in the base of Gabine Singh reported as 2017 TIOL 1042 CESTATIANT. VGP, Id reported as 2008-HOL-2137-CESTATIANC, Ang plast through Employed as 2012 TIOL 785 CERTATIANT.

The department has issued in utilitie SCNs for the same period for the purpose of 100 demanding service tax/reversal of certvat credit under Rule 3 of Cenvai Credit Rukes, 2004 (Lereinaller referred to as "CCF, 2004") no freight and careo handing income demoduby the aspellant. SCN, No. V.S.I/STR-Mundrs/ST-Div/Ut Commu/29/2016 17. dated 15/2 2017 alloged that the appellant was not reverses amount of cerval precaattrautacio so exempted services under Rule S of CCR, 2004 for the Linencial years. 2011-12 to 2013 14, considering transpurtation income is exclupted from payment of service ray whereas, SCN No. (V/16-118/S)(ADC/2016 dates 158.3.2017 demanded service that unit are sociation income for the Analysian at years 2011-12 to 2014-16 and the impligned Show Cause Notice No. DGCF/RRU304-982017-18 dated 31.3.2017 demanded Service Lexiof Re. 19.7%5764 to the period licent 5.7.2012 to 31.3.2015. Late, the pepartment has taken two different legal positions where two SONs has demanded service lax on transportation income considering the same service as axable service whereas SCN dated 15.3.2017, issued by the Joint Commissioner has demanded reverses of center creat availed on paramoningue services considering

Service Report 2 1

 transportation service as exernicited service. The decomment connect plow hot and cold at the same time and for the same period since it is utter travesty of justice. But 5 SCNs are issued to the same assesses.

Ξ

(iv) Auch of econds of the appellant has (non-considered in every year and 31 line normation has been known to the department and no poservation has been released by the audit officers from the period 2006-09 to 2010 14. Later on the period partment samulallege supervision of facts and intent to evade payment of service on the part of the appellant, when all the facts and all the optails were released on the part of the department. The specification and all the optails were release of Nizam Sugar Factory reported as 2006 TIQU 53 GO CX. Changela Travels reported as 2013 (S2) STR 762 (11. – Del.), Web impression (I) (P) Ltd. reported as 2011 (21.1 STR 462 (11. – Kolkata)) Against Transistor Clock Mig. Conseported as 2022 (139) ELT 342 (T1. – Mundai) and 1 Diamond Fewer infrastructure 1 imbed reported as 2010 (40) STR 925 (T1. – Mundai) to say that there is no suppression of facts with intent to evade service as and therefore, the extended period cannot be invalked and periody under Section 78 of the Act cannot be imposed.

(v) The impugned order has relied upon decision in the base of South Eastern Cos Fictids the reported as 2019 (41) STR 635 (Tr. - Dain) wherein it was had that since the consignment note is not ested. The service recipient is not liable to pay service tax under reverse oberge. The decision of the CESTA in as been admitted by the Horible Supreme Court by the decartment and the appeal has been admitted by the Horible Supreme Court coported as 2017-1101-253-8043. The appeal has been filed by the department contending that even if there is no consignment note, the service reactived by South Fastern Coal Fields (b) is that of CTA and therefore they are table to pay service ray under reverse charge. Thus, the matter is under togator and different interpretations are possible based on base and factor, match of each case, in the present case, the service recipients have psid service tax under reverse thange and her det this is a clear distribution fact which invalidates menous refer upon is the implaned order.

(v) The service text is not pevable, interest under Section 75 of the Act cannot be recovered and penalty cannot be imposed under Section 76 of the Act. The appellant reliad on decisions in the case of Jaci Kalst Sama, reported as 2016 (59) STB 955 (Tri – Wumbal) and Sundaram Textuae Ltd. recorded as 2014 (30) STR 30 (Med ) in the regard.

(yii) fre existence of monsilve cannot be established and therefore, no penalty under Section 28 of the Act can be missed. The appelens milled on roots on of the Henicle Supreme Court in the case of Hindustan Strophopmed as 1975 (2) EUT (J159) to say that for failt le to carry out the statutory obligation was the maun of quasille mille (1999) and the statutory obligation was the maun of quasille mille

See See

 proceedings and mail organity would not probably to imposed onless the appellant either aread believership in definition of law or was gainy of conduct contumectous of distributes or ested unconscious disregard of Step 35-gations.

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Personal nearing in the matter was blief dec by S/Snri Dersher, Received 4. Chartorae Accountant and Jonesh Pandya, Magagor (Finance), who reiterated the grounds of appear and submittee that this is 37 SON for period from July (2012 to Merch (2016) a ready adverted by earlier two SCNs 5 on patter (5.3.2017) one issued by the Joint Commissioner and enother by the Assistant Commissioner, that services of transportation of empty containers have port to CFS and vine worsh are GTA only sa decided by the monthle CESTAT in the cash of Dablid Electronics Pvt. Ltd. reported 58. 2016/TICL 442 CESTAT CEL, and hence, not deryable by from and payable by service. repervers) that they have submitted and planic volues independent on of service tax on GTA consignov/consignee and not by service provider that service receivers have already paid service tex and harror idepartment cart, ask service tax again; that they have been sugged every year of displice and audit records also attached under Appeal Memo and hence, suppression of facts can't be alleged as heat in the case of Bhatshi Tob-weracres i initial recorded as 2014 (33) STR 36 (Init - Montpat) ; "sts 9,10; that penalty under Section 75 of the Arths hot application in this case.

#### FINDINGS:

5. These ceretuity gote through the facts of the case, the impligned biden grounds of appeal and the submissions mode during personal meaning. I find that the appellant has already deposited its 1,49 3264 equivalent to 7.6% of service tax ourdinned vice intolghes order and 9.5% has complete with the requirement of Section 36F(i) of the Central Excess AoI, 1944, as mode applicable in service tax matters vide Section 82 of the Aot. Therefore, I proceed to depose this appeal. The issue to be perioded in the present case is as to whether confirmation of deptate the appeal of a contral section appeal and to be period of the contral case is as to whether confirmation of deptate the appeal and is period of the appeal of the appeal and the present case is as to whether confirmation of deptate the appeal and is period of the appeal and is period of the appeal appeal appeal as to appeal of the DFB and vice weak provided by the appeal and is period of roll.

6. The appellant has strongly contendration multiple SCNa have been tasked demanding service iax on transportation shores earlied by the appellant. I (ad that SCN pated 10.3.2017 set ed by the Assistant Opera second for the period rate 2011-12 to 2014-15 demanding Service tax on canoportation income and surphangly labeliner. SCN has also been issued to the appallant on same pate det 15.3.2017 by the Joint Commissioner demanding reversal of period stretch available or period for the service tax end are pate det 15.3.2017 by the Joint Commissioner demanding reversal of period stretch available or period for the service tax end are pate of the period form 17.2012 to 2018. SCN dated 31.3.2017 was satisfied by COLET for the period from 17.2012 to 21.0.2015 taggin itemation source fax on transportation income of the appellant.

From Mr. 1 kd. 1

 Hence, I find that the stand of the department was not clear to consider the income carried by the appellant towards transportation/movement of empty comainers is (abis) to service tax under GTA of under Cargo Panding Service or otherwise and merce. I find that the argument of the appellant to this extern is correct.

7. The facts of the case indicate that the appellant has undertaken the activity of bringing empty containers from port to their GFS and vice-verse and the appellant has provided bandling envices like. Then 1°t off and siding them in their empty container yard and these facts have not been disputed. It is also not disputed that the appellant has especially the container libes, bruncating the same in two parts – transportation charges on the ground that the contrainer to all they have not disputed service whereas, for handling enables or the ground that the contrainer to all the off displayed service tax on transportation charges on the ground that the contrainer to a GTA service whereas, for handling enables, from any paid service text (cond that the contrainer divided that is provided under Section 65(26) of the Finance Act 1994, as it stone diving relevant time, reads as under (

(23) <u>caugo handling service means leading, initiating packing</u> or <u>uppacking</u>, of pergo and includes.

- (a) cargo handling services provided for freight in aregal containers or for nuncontainerized freight services provided by a cores her freight terminal or any other freight terminal. for all modes of consport, and cargo handling service incidental to freight, and
- (b) service of peoking logether with transporter on of range or goods, with on without one on more of other services like loading, unloading, unpacking, but does not mouple, handling of export cargo or passedget caggage on more transportation of goods.

#### (Emphasis supplied)

7.1 Thus, for classifying any activity/service as Cargo Handling Service, the presence of cargo is a must I and that the transpondation of empty conteeners cannot be considered as range handling service. If yew of the taus the Pietre is no barge and in Vew of Para 11 of Annexure III to Roard's Circular No. 811/1/2022 TRU balled C1 08 2002, which spectrosity reass as under

14. OFSx also sometimes undertake storing/washing/ repairing and handling of empty containers for the shipping lines for which new charge the shipping lines. <u>Empty og</u>ttemers cannot be <u>beated as marge.</u> <u>Therefore, the activities mentioned above do not nome within the owned and a conce</u>.

## (Emphasis supplied)

7.2 In view of above, transportation of empty containers from boil to CFS and vice-versa can tibe called Cargo Francoing Service and no service tax is payeble bit such transportation charges under Cargo Handling Service as held in Dider in Acpeal No. (KCH-EXCUS-000-AP.7-195/TO 194/2017/18) dated 5.3.2016 in the case of Siddh! Vinsvek Logistics

The impugned order held that the appeliant had not issued consignment, notes and therefore, service of transport of emoty containers cannot be considered as GTA service, whereas the aspeliant has contained will be a QTA, any other document, which contains the detaits as reputed in a consignment note can also quality as a verif document and since, the appeliant has non-asued consignment notes they are set GTA, does not table good. Would like id examine definition of Guode Transport Agency' as provided under Section 55(60b) of the Act and Rule 48 of Service Tax Rules, 1964, which reads as another.

(50b) "goods transmotilogramy" a white any pervantatio provides service in release to transport of poors by road and issues consignment note, by whitever variet calloc) RULE 4B - tester of consignment index of Any goods transport agency which provides served in relation to transport of goods by madiin a goods can age shall issue a consignment note to be secicient of Service.

Provided that where any taxable service to relation to transport of goods, by road in a goods partiage is where exchanges under section \$3 of the Act. The goods transport agency short are be required to "valid the consignment role.

*Explanation* - For the curcases of this rule and the second provise to rule 4A, "consignment note" means a document, leaved by a goods transport agency against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is serially numbered, and contains the names of the consignor and consignee. registration number of the goods carriage in which the goods are transported, details of the goods transported, details of the place of origin and destination, person jieble for paying eervice tax whether consignor, consignee or the goods transport agency

#### (Emphasis supplied)

S ---- See

8.1. It view of accive, any period who provides service in relation to canaport of goods by road and issues consignment note, by whetever name called, is Groph Transport Agency and the consignment note is a document issued by Goods Transport Agency which is seriely combined and contains name of the consignor and consignee, registration number of the goode castege, decails of goods transported deters of place of organ and destination and details of goods transported compty containers and saled theorem case. I find that the appeliant cast canapolation of ampty containers and saled theorem case. I find that the appeliant cast canapolation of ampty containers and saled theorem case. I find that the appeliant cast canapolation of ampty containers and saled theorem case. I find that the appeliant cast canapolation of ampty containers and saled theorem case. I find that the appeliant cast canapolation of ampty containers and saled theorem case. I find that the appeliant cast canapolation of ampty containers and saled theorem case. I find that the appeliant cast canapolation of ampty containers and saled theorem case. I find that the appeliant cast canapolation of ampty containers and saled theorem case. I find that the appelication of ampty containers and saled theorem case. I find that the appelication of ampty containers and saled theorem case. I find that the appelication of ampty containers and sale data sale and theorem to Rule 4F of Service 162 mpty containers and theorem Rule 4F of Service 162 mpty containers and theorem Rule 4F of Service 162 mpty containers and theorem Rule 4F of Service 162 mpty containers and theorem Rule 4F of Service 162 mpty containers and theorem Rule 4F of Service 162 mpty containers and theorem Rule 4F of Service 162 mpty containers and theorem Rule 4F of Service 162 mpty containers and theorem Rule 4F of Service 162 mpty containers and theorem Rule 4F of Service 162 mpty containers and theorem Rule 4F of Service 162 mpty containers and theorem Rule 4F of Service 162 mpty containers

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Inading and unboding as GTA service even when the service provider had not result consignment note. I further find that Hule 2(1)(3) of Service Plax Rules, 1994 provides that in relation to service provided by GTA (porson liable to pay beight is a person table for psymentic relative fax, which reads as under: -

.....<u>É</u>...

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. . . .

(B) In relation to service provided or soreso to be provided by a goodal transport egenicy in respect of transportation of gooda by road, where the person liable to new freight is —

 (i) any factory registered under or governed by the Factories Am. 1948 (63 of 1948);

(ii) any secrety requerence under the Societies Registration Act, 1560 (21 of 1864) or most any other law for the time heing in form in any part of india.

€; (Ny — any co-operative sociaty esterilioned by or under envised.

(iV) — any dealer of excisable goods, values registered under the Centrel. Excise Act, 1944 (1 of 1944) or the other made frequencies;

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angle = \delta 0 y$  using supported asimplicitized, by or under any low- cc

(V) any parimetship find whether registyred or red under any lowfielding association of persons.

<u>may parametation page of in index to pay individe other himself of</u> through we agent for the benegedation of such goods by road in a positive <u>conteger.</u>

Howasti mat when such parson is located in a non-taxable familion, for provider of such service shall be liable to pay service fax (**Emphasis supplied**)

**3.2** If (ind that the appollant has contrained that the service reactives have paid service fax on transportation of empty containers under reverse charge mechanism as provided under Rike 2(1)(a) of Server. Tan Rilles, 1994 and Norffdation No. 35/2012-ST baled 25.8.2012, talso (inditial liability of psyment of service tex in respect of GTA service was on recipion) of the service even prior to 1.7.2012 and also from 1.7.2012 onwords. Therefore, 1 and that the appellant is not field to day service 1981 on a containers from part to 0-3 and vice versa and accordingly, demand of service tex continued under the implication share to be set self-orand to be set self-orand.

Same

Tage for 19 of 10.

 8.3 Since no service tax is payable by the spoelent, thest eads thoramet order for recovery of interest under Section 73 of the 7 of the ask for interesting canalty under Section 78 of the Act.

- 9. In view of above, this, aside the implighed pairs and allow this appeal.
- 2.8. अप्रोलकर्ता दवादा दर्ज की गई अपील का निपधाय अभ्येतन असेले से लिया जाता है।
- The appeal files by the appellany is dispessed of the above lense.

entri de la

(कुतादे सन्देश) <u>-</u> --- •<sup>•</sup>-• √, पथान आयलत (आनेतस) :-: . . . . . <sup>^</sup>

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# <u>पहि</u>ः

- ।'। प्रधान मुरूप आयुन्त, केन्द्रीय दरन्, द भेच्छ कर एव केंद्रारीय उत्पन्न शुल्क, अहमठादात्र क्षेत्र, अहल्लाचात्र को तावाकारी हेन् (
- (2) आयुक्त, केन्द्रीय वस्तु व सवा क्यानदे केन्द्रीय ऊलाद शुल्का, माधीय साथ काल्प्रेलही। हेतु
- (3) राहायक अध्युल्ल, वेकड्रीय बस्तु व सेवा २०१७व के हैं हैं य ३०० व शुल्क अपडल, गुँदरा को आवश्यक कार्यवार्ट है.)

्र राहे क्राइल -