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: ORDER - IN · APPEAL :

M/s. Adami Wilman Edit, Village - Dholo, Lauka: Munore, Okivitit Kulkh, Am Cude - 370 421 (a merchant exporterhorsidalter referred to as 'the appendix one' has Tiec Appendix No. V2/774/PAJ/2010; V2/275/R41/2013 etc. V2/276/RAJ/ 2013 egainst Orders-In-Original No. 217/ST/REF/2013; 219/ST/ Ref/2013 etc. 208/SU/6EF/2013 etc. dated 15.05.2015 respectively (referrefter referred to as 'the impughed orders) baosed by the Assisted Commissioner, Service Tak Division, Raikof, (hereinafter referred to as 'the inwer acjudicating submits).

2. The prior facts of the base and that the appealant had filed refund claims of (1) Rs (65,61,764/- for the benod from October, 2011 to December, 2011, (2) its (1.23./2.060/ for the benod from December, 2011 to March, 2012 and (3) Rs, 53.99 (67/- for the benod from June, 2011 to March, 2012 and (3) Rs, 53.99 (67/- for the bened from June, 2011 to March, 2012) with the lower adjudicating authenty index Notification March, 2012, with the lower adjudicating authenty index Notification No. 17/2009-ST (Galou (67.07.2009) (homeinafter referred to as the solid motification), who rejected relation claims, inter a lar, mainly of the gradient that (bein various branches at index, Channal, Pumbal), Kannal, Futheral, Kannal, Futheral, did tot fail within the junction of the office of the Assistant Commissioner, Service Tax Division, MIROT as these branches were not registered index of the conditions of the solid hotification.

3. Being sepriored with the impogned orders, the aboviant, preferred the present approach, *inter site*, on the following prounds:

() The department issued centralized regionation contribute on 07.03.2013. Which was applied by them on 13.03.2010: that contrained offing for all provines and payment of service link was aboved to them by the service tax department at Mondra w.c.f. 2006; 0.3) no readon shown in the impugned order for excepting the fact of these registrations; that the impugned order for excepting the fact of these registrations; that the lower adjusticating sufficiently has enred to rejecting refind claims on the ground link. Invite parmises of indone, Mugnbai, Chonosi ord, begames were not registered whereas the apple light ned centralized registration since 2006, which covered their

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branches at Indore, Chornel, Mumber etc. and they have been taking original credit of GTA for all these preparates at Mundre and else baying service tex for all these preparates at Mundre only since 2005; that the requirement of registration for reliable is only for the administrative upwen ende and such arministrative superior cannot be administrative upwen ende and such arministrative superior cannot be administrative spectrop of refund, when exceed at goods by them is not in doubt; that the grant of registration is the function of the determent; that having accepted the registration is the function of the determent; that having accepted the registration of service can the population for available; double particulate the transfer states of registration for available; that cannot be registration of service can the population to the double that particulate for rejection of refund distribution for available; double amminimized by grapping centralized registration pollue on their application submitted on 13 03,2010.

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(ii) The appendix was registered and holding contralized intgistration for all produces. Only the procedural aspect appropriate endorsement etc. Dairegistration contributed was not made, which was also amended subsequently by the department. Such correction has been given retrospective effect by the department. Therefore, it is incorrect to observe that coming adevant time, the registration was not evaluate.

(i) The purpose behavior the exception is to implement the policy of the Government that taxes are not to be exported. Once the fact of goods being exported is not in doubt, then the taxes paid on kindle goods must be refunded. The exemption in diffection bely provides meditation to implement this policy. (bus, it is not the exemption attitication in its conventional sense but is the notification to bothermore the policy of the taxes on the goods in be exported. Once this object is kept in most, the interpretation of various conditions of the exemption notification would fail into places, the principle of interpretation in such case is to extend the benefit and not to deny the same. The forthic first should fail into places, the Government to raise such order the benefit and not be derived as the transmitted in the most of the goods of the exemption is here had not to most in the way of benefits of interpretation in the case for do in the most of the Government to raise such order the benefit and of the Government to raise such order the benefit and of the Government to raise such order the benefit and action the sense with taxes not eviable.

(v) The question of registration, with reference to claim of reford is [73,004y for administrative convenience and such doministrative expension (2000), be ready the case for rejection of refeard which is a substantia (2000).

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(v) The provision of the proposessor Notification No. 41/2007 way the same as per No.11 callon No. 17/2007. In respect of Nullikation No. 41/2007, the Board Buill issued clauffection vide Circulat No. 101/4/2009-97 dates 12.05.2008 into the language and intent of both the rotification, as regards place of upining refund is contention, is the same. The subsequent pollikation was issued only in further stream into the procedure for refund. Therefore, the cardioption value is respect for badter notification, we used to refuse the provision stream into the procedure for refund. Therefore, the cardioption value is respect for badter notification would apply with full longe even in respect of subsequent notification of CBEC suggest that whenever exported is registered with the department, filled as planufacturer of the solution provider, the claim should be made with the jumpdictional office onders form the registered assesses should be the furly of longer at base of registered assesses should be the furly of longer at base of registered assesses should be the furly of longer at base of registering assesses should be the furly of longer at base of registering assesses should be the furly of longer at base of registering assesses should be the furly of longer at

(vi) The ower adjusticating solfholity follower the earlier under without examining the period and changes is the lasts. The registration has been granted subproduct to the addien orders and the period covered under the present matter is subsequent to their application for registration.

4. The appears word kept in CEG Book on the ground limit the appeliant basing of Appear No. ST/12887/2013 to fore the Honfold CESTAT, Abardadad in similar matter of Shoft own case, which was pending for decision. The present appears cannot be kept in Call Rook as can clarification given by the Board vide Chicolar No. 1628/16/2016-CX dated 25.01/2016 as decause this appear appear not be in fact by the uppellant. These appeals are, inco, now taken but of Call Sook for Dassing explosion process.

3.1 Personal rearing in the malter was allerdive by SM S. J. Was, Advocate, who pottersted the grounds of appeal and submitted that the appellant had applied for centralized registration in 2010 on 12.03.2010 but detectment granted centre wet registration in 2012 on 09.03.2012, that the period of rarund of likes appeals are from Sund, 2011 to Marta, 2012; that the separatment giving of Safagiling ball exploration in geory or manent and them rejecting registration in geory or manent and them rejecting registration in geory of the line registration.

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al Mundra kince 2005 with Indore, Crietiner, Munital Grittian branches; that CBEC Circular No. 201/4/2009 ST dates: 52.05.2008 in Perz 4 has allowed to file refund plaims in such cases, all Munora, where stey were registered for service tax payment for the service available cosport the goods: that in the facts of these cuses, their acheans need to be allowed.

4.2 Reversing there was no supported from the department despite P.F., replices/reminders sent/e-mateo to the Complementate.

The appearant vide their Scour Galeri 64.63.2019, Interioral submittee that 4.3 the appeliant was registered and Spliting control registration curing the material period; that the supellant had specificy ly referent to Circular No. 101/4/2008-SF. trated 12,05,2008 to establish a glb sty of data since contral registration was hald by them at Munara; this liftle choulan is specifying place when the application for refund can be filted, that the circular very clearly says that once Here is certial resistation at Mundra for all their productly the refundapplication for extort from all branches manipe lives at such place i.e. Muncies. that the central registration is sufficient and each place of buviness of exporten need not by registered; that the place of "ling claim is more in the nature of administrative convenience since the claim is required to be proutinized based on records, the authorities, et any place, would have the same records to examine i and defended the dama, therefore, the blace of daim has being using fattering qual paper over that presuming that the applications were filed before incorrect. authorities, the department was bound to send the claims to the apprecriate. authority, therefore, the rejection of the claims is not correct and propert that the claims are cased on the principle that taxes are not to be exported and only. the coods/services are to be express; that the opperant sugnitives central registration dated 13.12.2009, which also shows registration to he from 07.08.2008. Usis confirmer conclusively shows that the anne anti-was helding control registration from 2006; this, the argodiant invites specific attention to Rue 4(5) of the Service Tax Fullow, 1994 which provides for beeming prevision. to gran's of regionalized after a days of approperts that the epsetiant specifically. ("Vites alteration to Their 2010 application submitted online and a citizenapplications file. From time to turne for addition of various blaces across Turka for cayment of service time.

4.4 The appellant vice their falter date: 09.02.2010 (matrixed on 12.02.2013), other alia, submitted as ender:

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(i) the they vide letter cases 09.11.2011 diaborately explained the status of contralized registration of all the transfers at Mustdra part, from initial registration application to periodically updation in registration by submission of S1-1 forms registration 2 upg wills highlighting redeerce of electronic registration under ACES, a place by the department would, 07.09.2006, *sub-moto* which traded contralized registration as single promise registration, that the appellant provided documentary evidences about powers? All service tax related to all the formation and the contralized registration with the distant on a single promise registration on all the solutions having been submissions that considering all these submissions are department registration and the original contralized registration and the original contralized the registration and the original contralized registration and regularized the registration and the original registration had as a method of that issue date as \$7.00.2006.

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(ii) that the appellant enclosed copy of S1-1 cated 15.02.2010 which spokifically mentioned encodraterial of renirelized registration for indusion of a new very co; that the previous registration certracate S1-2 was also attached to the S1-2 which was or cated. 9.01.2010; there were much after adjuation of online registration under ACES by the copartment; that whereby manual registration updations were also authenticated as also poline registration updations were also authenticated as also poline registration updations were also authenticated as also poline registration of controls also considered by dependents 0, frig regularization of controls are registration.

() that the appellant thown adontion to enclosed cooliments storwitted in veletion to some office procedure under Notification No. (8/2009, however, the documents are specifically related to and supporting to existence of the controlated registration; that adonts nglips interval function any assesses interding to avail exemption, related to service (existence) that reverse charge in relation to extend commission paid to foreign decides, tax for the particulars in EXP-2 on malf veery basis: that accordingly. The upper and red better foreign period commission for a supple copy enclosed; that address of only those examples, in relation to which expanding to expeription, were being end to supple copy enclosed; that address of only those examples, in relation to which expanse claiming, experpind, and outly paid outling periods, were being mentioned, in EXP-2.

(v) that the Homble CESTAT vide Obliev No. 4/01120-11123/2015 dates 28.02.2015 passed on Identical (save in the case of the appollant whereby the case was remanded back (enovience) anyoneet of the appeliant for beal stand by discomment of acceptance of payment of service tax related to various planches and not a count refer to expert from some bit iches was densidered

<u>Findings:</u>

5. I have carefully gone through the facts of the case, the in pugned orders and Ann-ai Memoranda. I find that the issue to be decided in present three appeals is whother the appellant is entitled to refuge of version law orderal Shindra for the service used for export of goods, under Notrication No. 17/2009 ST, exported from their brancioffices located at Indose, Chennal, Mumbai, Karnai, Sudhiana, etc.

6. It is a fact that the appoilant had filed follow dialogs of Service fax bala on the specified services unliked by their branches lowards expected the goods from line. 2011 to September, 2011 for refuted of Rs. 53,99,157/-, from Occaber, 2011 to Determen, 2011 for refuted of Rs. 65,81,754/-, and from Depender, 2011 to March, 2012 for refuted of Rs. 1,23,22,063/ (total period in from lune, 7011 to March, 2012) under Notification No. 17/2003-51 which granted before of service tax pais on the services used to expect the goods. The fower abjudiceting setherity rejected their sefund claims. *Index alls*, he fling, if all their oranches, from where expectibled been made, were not registeric with biar/fix division and hence, shill not find moder the justification of une lawor adjudiceting authority during the period under consideration.

7. In the that the appellant has constanted that the department has accepted central registration for Mundra for all their psychology with effect from 20.01.2005 and had allowed contral billing dat secounting to be made at Mundra's nee 2005 and else for taking convaticed it an CIFA for all their branches and also to pay service tax on GTA at Mundra daily for all their pranches and also to pay service tax on GTA at Issues on the centralized registration certificate to them on 07.03.2017 with all their branches, which was applied by them online at 12.03.2010; that since they were already operating on central pilling and payment of service itax on GTA for all their branches at Mundra only since 2005-06 of line, police registration in 2012 can't be made basis to deny them return of service itax paid by them on the service utilized for expiril of goods purific No.17/2009-ST dated 07.07 2009.

2.1 Unind that the Impugned refute claims deven period from June, 2011 to March, 2012 as perioded to Pare 6 involving refuted of Ris-

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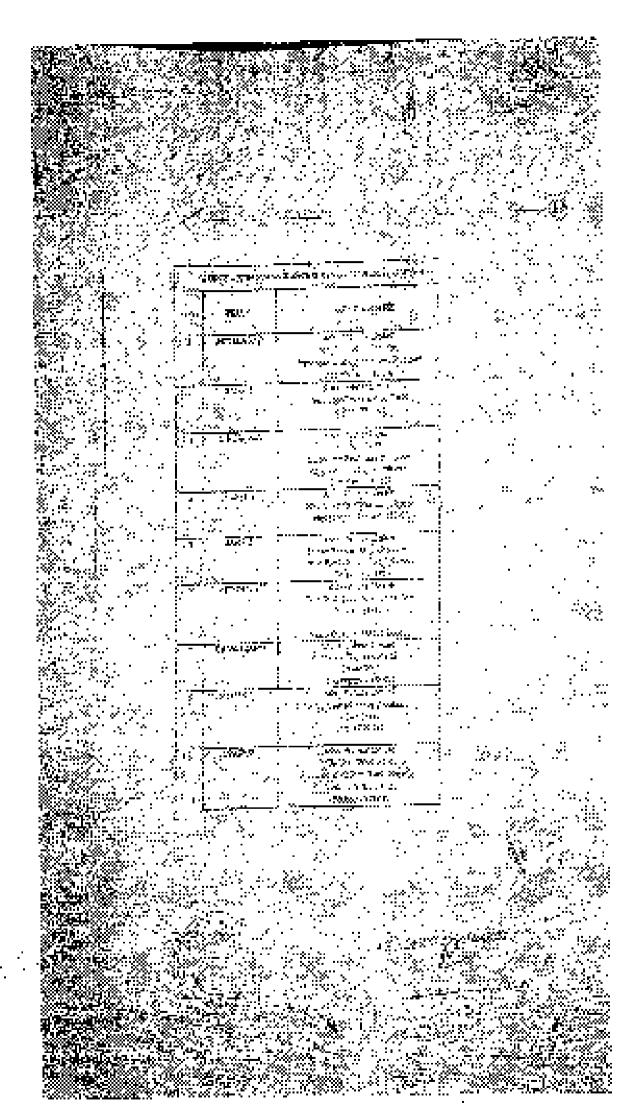
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2,63,53,014/-. Notification No. 17/2009-SN required the appeliant to Equal pson registered at Mandra for all their branches for which they claimed refund like Indone, Chennal, Mambai, Kental, Luchiana, etc. and they have produced operation's evidencing that they were registered at Mundra for all these branches since 2005 as is evident from their letter bated 27.01.2006, Jocknow edged by Bange Superintercent of 28.01.2005, Analysed copy is reproduced by!ext

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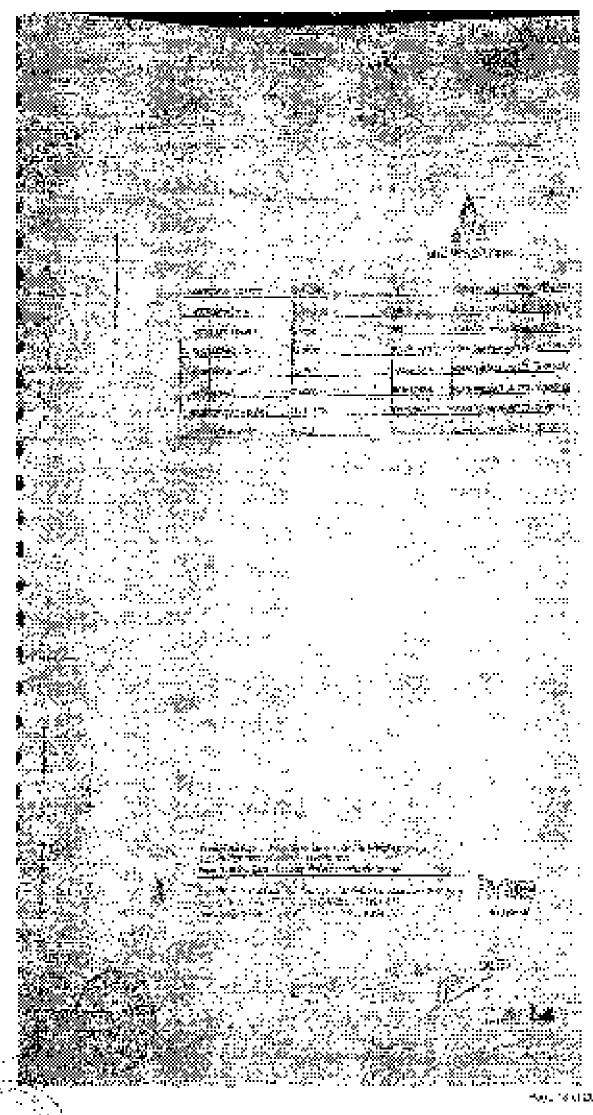
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73 I also find that these body benis were submitted during actudication also but for reasons not stated the adjudinating authority. pretameti not tu look into these vitat potuments. When online, registration under ACES started in the department in 2008-10, the appeliant apphed for online registration on 19.93.2013. However, organization took about 2 years to grant from unline centralized. registration and for this belay the appellant can't be faulted with. Hence in my considered view, there is no justification whatspever to rejeta refund dising of the appellant for the period from June, 2011 for March, 2012 knyolying refund of Rs. 2,63,53.014/- witer the expert of guide, the services uchized for export of the goods and payment of service fex on these services are not in dispute. There is no ruse freetroal set all rai the impligned longers for rejecting these refund de maion y on the group, a that Mundra Division has no jurist ation over al their branches located all ove: India when Mondre Division ras. dilowed daymont of service tax for all their branches by the addellars. at Mundra daily. It other words, the appel and has paid service tex for the services used in the expert of goods from their branches in Endle. and they sought refund at Muctima for their service tak on diby them at Mundra only.

7.4 Since refund is apply or goods and over of the vale services by the appellant in export or goods and eavment of service (ax by the appellant at Mundra on these services for ell their branches are not under displate, il have no option but to help that the refund is some sole to the appellant.

st view of above, I set aside the radigned process and allow.
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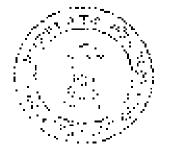
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