्रधारआयुक्त (क्रमीलस) कर क्षमीलय,वस्तु उर्व तैया क्रमीर केन्द्रीय उत्पद्ध शुक्ताः CAU TEK PRINCIPAL (2046) IPANONAR (REPEALA), ORTACA MILIAI PROISE

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क्यांचा १ (अस्तरकार) स्वारको १८८७

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#### **КСП-ЕХ**СО<u>8-000-АРР-049</u>-2019

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को कुलार संस्पन, १९८८ क एक्स एन केन्द्रोत, राजातीर व्याना साहित र

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्रमार्थः विकासको स्वत्य प्रोतीयः । स्वति व राजिनेव को सुन्य स्वता है स्वति वर्षः

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M/s Anchor Ekstelem Pot. Let., Survey No. 285.235,286,, Bhay Heachau Hoad, Village: Laichand., 7:1: Mitaj- Nutok-377/165.

्ध आहा. अभिन्, तानानिक सोह न्यानेन होस्य विक्रिया सीवी से स्थापना पाणित्रकीर प्रतिस्थान असम्बद्धान्त्री से अन्य अन्य प्रशासना प्रतृत्त संभवी by this Property for the State appeal to the especialist commonly on the deducate असर

र्धा माध्यक । केन्द्रिय उपयोग करें का अमेरिक स्थानकियान के कि अमेरिक केन्द्रिय हुन असूर्य स्थान के प्राप्त के आ के प्रतिक मोरिक आणि कार्य आकरों क्या कर देशों के जिन्हें विकित कार्य के कार्य कार्य है. Ŀ'n

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কর্মিকা ভ্রমণার নিজ্যুলট্টন কর্মি কার্লে গ্রেক্ত উল্লেখ্য হয়েছে। পুরুষ কেইস্কার স্থানীর কার্যাধী ভ্রমণ হৈ জিল কর্মণ ক্ষিত্রক কৈ ভুগে ক্ট্রুইড়ে ক্ষ্মণী ভ্রমী কাইক চ

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ਨੂੰ ਵਿੱਚ ਸੁਵਿਕੁੱਧ 154 ਜੋ ਬਹੁਤ ਹਨ ਮੋਜ਼ੀਆ ਨੇ ਬੇਲਾਜ਼ ਕੈਂਗ ਸੂਬੀ ਲਵਿੰਚ ਸ਼ਾਮਾਂ ਨੂੰ ਆਆਈ। ਹੁੰਦਰ ਨੂੰ ਕਰ ਹੋਰ ਬਹੁਤ ਮੁਸਲਿਕ ਸਿਆਉਂ ਸ਼ਿਆ। ਜਿਸਨ ਸੀ। ਜ਼ਿੰਦਰ ਮੋਟਿਆ ਮੋਟਿਆ ਸ੍ਵਿੰਦੇਸ਼ ਸਭ, ਬਹੁਤ ਦੀ ਭਾਰਤ ਹਨਾਈ ਸਲਬਦ ਸੰਸਟ ਸਿੰਦ ਸੰਸਟ ਸ਼ਹਿਤ ਸ਼ਹਿਤ ਸਿੰਦ ਸ਼ਹਿਤ ਸਿੰਦਰ ਸ 171

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्री केन (इंटर के क्षेत्र) के कार है। इस केन (इंटर के क्षेत्र) के कार है। इस केन के कि एक कार के कार के कि कार के कि कार के अवस्था के कि कार के कि अने अने की कि की कार कार के इसकी के कि एक कार के कार्य के किया की, 20 के आणिका कार के अवस्था के कि कि अने की कार की की

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নাই হাৰ ১০০০ জন ব্যক্তাৰ কি জিলা দিলৰ জন্মত্য নিচাল বা মৃত্যাৰী নাম বিচাল কিবলাৰ প্ৰাৰ্থ । In 2020 নাটি চল্ডৰ স্মৃত্যাত্ম ও জন্ম বিচাল কি ও সামি বিচাল টিমিল্টাৰ জন্মতাল ক্ষেত্ৰত সংগ্ৰহণ ıĽı

्रोतिक कुन को का नाम का कुन का किया है दुर्भ कोत एक कोतिक के उन्हें के विभिन्न प्रवर्णना ने कुन नाम की कि हैं के एक प्रवर्णना मुक्त मुक्त के उन्हें के कोतिक हैं के 1990 के प्रवर्ण के दुरस्य निर्माण की कुन कि अपने का का की दुरस्य कहा प्रविद्ध के किया की? कि की का का के 1890 की कि 1990 के उन्हें की का कि 1990 के 1990 के 1990 के 1990 की 1990 की 1990 की 1990 की 1990 की को का को 1890 की 1990 की 1990 की 1890 के 1990 की 1890 की 1990 th/ og Utan Park de 1855 er er Halt sapræste Ard III. i vir

ੂਰੀ , ਪੂ ਪੂ ਨੇ ਨਾ ਅਜ਼ਾਣ ਨੇ ਸਾਵਿਕੰਦ ਵਿੱਚੀਂ ਨੂੰ ਪੂਰਤ ਤੋਂ ਐਲਾ ਦੀ ਕਿਹਾ ਹੈ ਵਿੱਚ ਹੈ। ਹੋਈ ਹਨਸਾ ਭਾਗ ( e.e.) ਹੁਣ ਹੈ ਹੈ। ਭਾਜੇ ਨਾਤ ਤੋਂ ਹੈ ਕਰਨ ਹੋਏ ਨੂੰ ਅੰਗੂਆਰ ਦਿਆ ਜਾਣ ਸੀਆਂ ਨੂੰ ਸਰਕਾਰਗਾ ਹਨ ਨਾਮ ਤੋਂ ਨਾਮ ਨੂੰ ਭੀਕਮਨ 1000 ਦੀਆਂ (ਸੂਜਰਸ ਵਿੱਚ) ਵਾਰ ( active ( j. ) ਹਨ ਸਿੰਘੀਆਂ ਸੀਆਂ) ਨੇ ਕੁਝ ਅਜ਼ਾਨਬਾਨਤ ਸ਼ਾਹਿਕਰਨ ਸਿੰਘ 261 ਦੇ ਅਜ਼ਾਦ ਸ਼ੀਹ ਬਹੁਤ ਸਮਝਾਤ ਦੇ ਸਿੰਘ ਸਿੰਘ ਸਿੰਘ ( active ( j. ) ਹਨ ਸਿੰਘ ਸਿੰਘ ਸਿੰਘ ਵਿੱਚ ਵਿੱਚ ਸੀਆਂ ਦੀ ਸਾਹਿਕਰਨ ਸ਼ਾਹਿਕਤ ਸ਼ਹਿਤ ਸਿੰਘ ਸਿੰਘ ਸਿੰਘ ਸਿੰਘ j. -

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.: ::: ুক্তৰ সংগ্ৰাহ ও চিন্দুৰ কৰা নাই কৰু টাই স্থানিক ই ইৰাপে চাৰকে চিন্দুৰ নাই, আনিচনা আই চাৰিও বিশ্ব বিশিষ্ট ই ইৰাপে কৰিছেই কালে বিভাগ্যন কৰে আইছি ইছিল ক Por the statement, আনহাত position of which provides of the self-of-conting of metal in conting of mapped in conting of products and the continue of the statement where we accessed in

# :: ORCER!A<u> APPEAL :</u>

Mis Anchor Electricals Private Emitteri (formerly known as Anchor Daewood Inclustries Emitted, Units, Electric Division). Survey No. 234 to 738. Bhuj Bhachat Road, Milago – Lakennid Italicka Bhug, Kachohn-Grijatal (hereinaller referred to As Jacque and) fred present appear against Order in-Origins. No. 23/JIG/2017 18 pated 25/JIJ/2016 (hordination referred to as impugned proof) plassed by the Joint Commissioner, Central CST, Ganstidham (Kuich) (hereinafter referred to as impugned anthody).

- The brief facts of the appeal are that the appear and had applied on 11.5.2000 for a flergright rature for FY 2006 09 in secrets of Para 2.2 of Notification No. 38/2001 CE as ed. 31.7.2001 and identify their application, they look was wide credit of Rs. 55/2001 in their FNA in April 2016, that the appealant reversed Rs. 1,76,7414 of Fouristing Costs in June 2015 but not reversed credit of Rs. 54.00,034/4 of outly of excee. Show Cause Notice No. MAR-IVBNO/Commt./158/2015 18 dated 26.2.2016 was issued to the appellant demanding recovery of avoing/or credit of Rs. 54.00,034/4 under Section 11A of the Control Decise Act. 1944 (hereins field referred to saffor Act.) read with Natification No. 52/2005-CE bates 21.7.2001, along with interest under Section 11AA of the Act and for imposition of bonalty under Section 11AC of the Act and for imposition of bonalty under Section 11AC of the Act and for imposition of paralty under Section 11AC of the Act and for imposition of sections referred to as Rules\*. The imposition of paralty of Rs. 54.00,0244 taken by the appellant sections of order confirmed recovery of creent of Rs. 54.00,0244 taken by the appellant sections of the Act read with Rule 25 of the Rules.
- Being aggreves with the imcugnes order, appellant preferred the present cappal, inter alla, on the following grounds:
- The appellant had filed an approach for differential ro-credit of FY 2005-08 on 11 5.2055 under Para 2C(d) of the said Notification and Para 2C(e) of the said Notification provides that the amount correctly refundable needs to be determined by the jurisd offene. Assistant/Deputy Commissioner of Central excise and to be intimated to the manufacturer by 15th day of next month to the month in which the statement under clause (d) has been submitted, which was not date by the units offener that co-cent reading of clause 2C(e) and clause 2C(g) of the said Notification emerges that the demand for unequal return has to be made within one year fibral 20th of the next month during which integrial credit was taken in reapect of the delatances during the previous month; that the imaginate SCN was solded on 2B.2.2C15 Le. offer (livers) that no SCN can be exceed by the pages thent effort / years and others is no provision for the composing that even the extended period to be invoked. SCN is required to be said or the beginning that the date of knowledge of the pagestment; added the demanding to be to be in the specific that and not by bat of initiation. This, the specificiant rotics on decision in

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Nago No. 3 of 11

the case of Paule Products Pvt. Inc. supported as 2009 (237) SLT 579 (T) — AF $\pm$ 4.) in support of their contention.

- Without projudice to the above, the appointmisuportized that they applied for receded of duly in Their PLA since Para 20 of the sale Notification required the appellant to take the re-credit first and then the the application with jurisdictions. AC/DD who may determine the engine amount and if there is excess systement, the assesses is required to reverse the sald amount within 5 days from the cate of infination. The expellant has submitted the application for re-credit of engale differential amount in terms of Para 2.2 of the said Notification on 13.5.2009 with the jurisdictional AC introduction the application was pending with him for betarmining the correct refundable amount as related. It is not upon for the department to make the demand without determining the correct refundable amount after considerable period had been cassed and therefore. The allocation make in the impugned SCN that the appellant had availed *systematic* credit will cult waiting for dispose of the re-credit application is invalid, illegal and against the convisions of Norification Act 362(01-05 dates 31.7.2601).
- (II) It is submitted that central explae duty paid in cash was exempted under the Natification No. 39/2001-05 detoc 41 / 2001. The Natification provided two alternative procedures no claim the exemption as slightless in the a 28 and there are 20 of the Natification. The appellant had availed the option of remote of amount as provided in Para 20 of the said Notification of or shall be applicable for the whole thandst year and a center of exemption and to granted extractly way of sphird as provided in Para 28 or Para 20 of the said Notification.
- Since demand of story is non-sextainable in the eyes of awilthe efore, no interest can be perioded and no penalty is impossible under Section 11AD of the Act. The appellant did not induge in fraudi willst assertatement of suppression of facts of the awayon of central excise outly him not evaled be died on the differential amount for FY 2008-09 and also thed statement of macrotin with the department on 11.5.2009. Therefore, it is invalid to some that there is any suppression of tacts on the cert of the separation.
- The Assistant Commissioner, CGST Division Bluj, vide his letter T.No. VICEXAR-PB upbCNAndron Electricals 13-14 dates 25.3.2019 is showing parawise comments or grounds of appeal filed by the appealant stating that the issue involved in the present case is aspirotoid related, of central excise duty which was eque to II eincle mitor differential refund filed on annual pasis; that the saud involved in the matter of M/s. SAL Steels Einitied & others is a togetifier a different and independent matter whole the lamended Notification No. 16/2008 CE based 27.3.2008 and No Tostion No. 53/2008 CE bated 10 d.2008 (issue been positioned principally on the ground that the amends are antities is to promise or estooper, that the SLP No. 25195-25201/2010

 $\mathcal{A}_{k+1}^{N}(x_{k+1}) = (-1)^{k} \operatorname{Fr}(x_{k+1}(x_{k+1}))$ 

filed by the department against the monitole Gularet High Cours ereor dated 10.3.2010 in the base of SAL Steels Lymbad & others reponed as 2010 (250) ELT 185 (Guij.) is рено пр. dadisjan; that the Horible Bupreme Court vide order dated 10 1 2012 stayed the operation of the impugned (Edgment to father orders subject to the condition that the department would release 50% armount due in terms of the cribuglied judgment to tonse respondent parties who is high solvent sandy to the spiisfaction of the jurisdictions. Commissioner within time limit prescribed that the sope are does not haid. the expansity of a respondent early under SEC No. 28  $194-2920^{\circ} B$ 0.10) that the appellant relied upon decision of Pane Products Hybridth reported as  $2008~(337)~\mathrm{BLT}$  575 ( $^{\circ}\mathrm{Pa}$  – Ahma j to contains that the segment is nift by box  $\omega_j$  imitation. Inswever, SLF (0) No. 19290/2011 filed by the department against the said order before the Hanide Supreme Court is pending, that hence, the relied upon decision, committee said to have sulained finality so long as the issue, is *sub-ration*, that the current of Para C and Fars, C of the appeal memorandum are misleading and stays for from trith; that Para 28 of the Notification No. 59/2001 OF dates 31.7.2001 but has the mechanism of monthly cash refund of the smount as worked out under Pera 2 of the said Norficerion: that Para 20 of the said Not lication provides an obtional facility to the manufacturer to take re-redit of such monthly return able amount authors to conditions as presented therein; that he referred and reproduced Para 2.2 militha said Notification which aimed at recoupment of annus, difference in resund amount and submitted that differential refund shall be refunded to the mianufacturer subject to condition that the local return mede to film during the year, thoughing the refund of differential amount populator according to the duly payable on value absidion whether at the rate specified in the Table or at the special, late fixed under Pera 2 fillof fire said Not rest on; that no tablity of re-predit has been extended to the appellant while providing for payment or sanital affordisamount in terms of Para 2.2 of the eats Notification which outries the mechanism of refund only: they the re-credit facility extended under Para 2C of the sale-Notification. was only in respect or monthly and regular returns as per Para 2 of the said Notification and therefore the sub-sixty credit textor by the appellant is negurar and to contravention of the seld Notificetion; that the demand for interest and conalty would too approve certainly when the original domand for recovery of outy of excise sustains.

Fersonal nearing in the matter was attended by 8hri Rahul Gajora. Advocate who reflected the grounds of appeal and also submitted witten submissions along with case laws to submit that they are eigiple to take credit accuracio as their application cated (1.5 2006 was not decided till April 2015 and even topay and hence. SCN is promatured, that Para 2.2 or Not figation No. 38/2001 CE dated 21.7.2551 has been attuck down by the Henric Gujara. Byt Court in the case of SAI. Stocks 1td. reported as 2010 (200) Hill Hits (Guja) (Para 118 to 120) as an encet by Northestions 48/2008 CE dated 27.3.2008 and 36/2008 CE dated 10.5.2008 and hence longitial Not fication 39/2001.

AND THE SAME NOTE IN

OF provais as on cate; that tilere is no stay of the frontile Apox Court egainst this. ards of the Hunflike Grijarat Ligh Court and hence, the judgment called 15.3.2010 ভা ointing on all; that it shollher similar case of Furie Products Byt, Ltd. reported as 2009. (252) FLT 579 (Till  $\pm$  Ahmd : it isself-earline): that Notification condition has been Motsted by the decartment crice an application has been made by the assessed that they have made appaication on 10.5.2009 whereas SCN has been extrem on 29.9.2016. and hence, bemand for parition period is time better; that the spoye eiger of CESTAT. has been upheld by the Horible Gujerar Figh Court reported as 2(4.9 (29) STR 123) (Gujii) that even on mentilitara 2.2 is 0.5 restricting to well for refund of differential  $5\pi$ armus, account, more so, when application is conding with the copartment for almost all year this pala never say had refund can libel laken by way of reviews a matchia paga. only but into mechanism of refund; that penalty under Rule 25 does not cover this case. and SCN also does not spell out as to which clause of Rule 25 has been igeneed; thet Socion 1140 of the Contral Excise Act. 1944 poes not survival shat there is no auporession of facts on their parties they had applied in May, 2009 ite, within two months of ending of FY 2009-09 on 31.3 2006, then onwidoes Rule 25 of the Rules survively

## FINDINGS:

- I have carefully grad through the facts of the case, the incugated order, the grounds of appeal and the written and are submissions made during paramet bearing. The issue to be decided in the present case is as to whether confunction of demand of recreation bearing assistances. Notification No. 36/2001-CF cappd 33-7-2001 is correct or not.
- [7] If nd that the appellant had currenenced comme dall production of the excisable goods on 1.5.2005 and slope lines, Probe they were availing the benefit of this exemption Notification that the appellant opted option of credit of around in account current as provided in Para 2C of the said Notification and have been submitting sustenant of the total duty payable as well as the buty paid by utilization of DENVAT credit and the credit taken in account current, or even estequivible paid the credit taken in account current, or even estequivible all Para 2 of the said desired under the eard Notification and specifical in the said Table at Para 2 of the said Notification and there is no dispute over the same, tiwould the to reproduce the relevant tool of the Notification No. 39/2001-CE dailed 31.7.2021, as prevailed during the disputed period when reads as a tident.
  - In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1) of 1944; head with sub-section (2) of section 3 of the Additional Eutres of Excise (Goods of Special Importance) Act, 1657 (56 of 1957) and sub-section (3) of section 5 of the Additional Duties (3) Excise (Textiles and Textile Articles) Act, 1978 (40 of 1979), the Control Covernment being satisfied that it is recessary in the public interest so to do, hereby exempts the goods specified in the First Spheriula to the Central Excise Tight Act, 1965 (6) of 1966) other than goods specified in the Annoxuro appended to this natification and disperse from a unit located in



Kuton <u>platnor</u> of Guj<u>er</u>at Irosh so m<u>yon or the duty or excise or the additions</u> duty of overselves the nase may be illeviable belook under any of the said. Acts as is equivalent to the amount of duty paid by the manufacturer <u>of across other than the empoint of puty paid by infilization of CENVAT gradit under the CENVAT Credit Bulbs, 2001.</u>

Provided that in the case of a unit having an original value of investment or plant and mach pay installed in the focusty solaw ruposs liverly drule on the date of commencement of connectial production in that this me exemption contained backin road apply only for the first decrances to to an eggregate value not exceeding twice the value of such investment from the same of commencement of commercial production, in each year.

2. If the butty bayable on <u>value addition should be equivalent to the amount balouteted as a percentage of the total duty psyable on the said excisable goods of the description specified in calumn (3) of the flacte below thereins liet referred to as the said Tubio) and falling within the Chapter of the said First Schedule as are given in the corresponding entry in column (2) of the said Table when manufactured starting from inputs specified in the corresponding entry in column (5) of the said Table in the same factory, all the rates specified in the corresponding entry in column (4) in the said Table.</u>

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Hrowkled that where the puty payable on <u>value addition excense</u> the puty paid by the manufacturer on the said excisable books, other manufacturer on the said excisable books, other manufacturer by the amount paid by utilization of CENVAT chedit puting the month, the outy payable or value addition, shall be dearned to be equal to the duty so paid other than by CENVAT chedit.

2A in cases where all the goods produced by a manufacturer signification the exemption contained in this

 $S_{\rm poly} \sim \frac{1}{\sqrt{2}}$  . There is a 1911

notification sinal, be <u>subject to the condition that the manufacturer first</u> <u>utilizes who</u>le to the CENVA credit available to him on the <u>past day of the membrunder consideration for psyment of d</u>ay on goods cleared during <u>such murch and pays only the palaced amount in easi</u>

- 2P. The examption contained in this notification shall be given effect to inthe following meanor; namely: -
- (a) the manufacturer shall subtrain also something the fore duty point and that paid by left zation of DENVAT lefect, on each category of goods specified in the lead. Table and pleased under this nebhoation, to the Assistant Commissioner of Cataira. Except or Debuty Commissioner of Central Excise is all e-case may se, by the 7th of the next monor in which the cuty has seen care.
- (a) the Assistant Commissioner of Cerkot Excise or the Deputy Commissioner's Central Excise, as the case may be, after such vertestion as may be doctred notassary, shall refind the duty payable or value addition, computed in the monte as specified in pacagraph 2 to the manufacturer by the 15th of the monte following the one in which the statement as a cause (a) above has been submitted.
- 20 Notwingtending anothing costained in subcoalegraph 22 above.
- (a) <u>the mains sets enabling over option may take cradit of the amount</u> calculated in the maintagle-position in paragraph 2 in his account surjects maintained is forms of the Excise Wantel of Supplementary Instructions issued by the Central Board of Excise and Customs Such amount motified in the account custom may be at fixed by the manufacture: for dayment of 53ty, in the maintage perified under rule 5 or the Central Excise Rules, 2004, in subsequent months, and such payment shall be decreed to be payment in cash;
- (a) the credit of the refund amount may be taken by the manufacturor in his account or rent, by the 7th of the month following the month unberconsideration:
- (b) a menufecturer who intends in two time option under disdee (a) she exercise his option in writing for availing such botton defere offsciling the first clustrance in any (leancie) year and such option shall be effective from the date of exercise of the potton and shall be with: rawn during the remaining part of the first oat year.
- (ii) the manufacturer shall submit a statement of the total duty payable as well as melduly paid by utilization of CENVAT medition of removae and the oreginal samples per clause (a) indicating alegary of special manufactured and deared upder the notification and specified in the said Table in the Assistant Commissioner of Central Excise of Commissioner of Central Excise, as the base may be by the 15th of the month in Worth the profit has been suitaken.
- (e) the Assistant Commissioner of Central Egost or the County Commissioner of Central Excise, as the cooks may be, effect such ventrestion, as may be determed necessary, shall determine the Stroug spready refundable to the map, tambras and intrinsic to the manufacturer by the manufacturer is in excess of the amount obtaining, the manufacturer shall excess of the amount obtaining, the manufacturer shall excess creating the account current manufacturer to be described account current manufacturer to be manufacturer as for the manufacturer as a continuous the manufacturer as for the manufacturer as account of returns a form the amount of returns

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detendined, the magnifactural shall be eligible to lake lated to little became emparts

- (f) its case the manufactures fails to comply with the provisions of dauses (a) to (e), he shall forfeit the option, to take credit of the emount calculated in the manner specified in sub-paragraph 2 in his account current on his own lies provided for in dauses (a) to (c)
- (g) the amount of the credit swalled arrigularly or availed of in causes of the amount determined encreedly addingable under chause. (e) and not reversed by the manufacturer within the period specified therein, shall be recoverable as if it is a recovery of bury of cross enconcously refunded. In case such irregular or excess once his unitsed for payment of excise duly on elemences of excisable goods, the said goods that be considered to have been desired without payment or buty to the extent of calls ation of such irregular prescess gradit.

Explaination – For the guydoses of this paragraph, duty paid by utilisation of the amount credited in the account current, shall be taken as payment of auty by way other than utilisation of  $C\pm NVAT$  credit Rules, 2004.

(Enionaeia suppil<del>o</del>d).

- In view of above, it find that Notification No. 38/2001-QE dates 31,7,2006, as amended, provides that the manufacturer of the excisable goods may avail exemption. from contrat except duty it central escape duty is paid through account carrent in each month, by Wey of refund as provided in Para 20 or by way of reversions provided in Para 2C of the Net festion by taking into consideration the percentage of value addition i as presenced in Para 2 of the Northborkon I find that the cape lant had availed benefit of re-cools of outy amount paid through account current as provided in Parz 20 of the Notification, No. 39/2001 CE dated 01 7 2001, as amended. However, the appolisht on 11.5.2006 filed refund claim to exterential amount of per iral excise duty refundable to them for the Entre FY 2008-09 which had not been decided by the phispighonal Assistant Contribution 1 turner find that the appoints, after issue of Order bated. 18 3 2010 by the Honbis Gujarat High Spark in the case of SAL Steels, timited reported. 22 2010 (200) ELT 195 (Gujl) sock sub-worm re-order in Apat, Minut perig differential. central excess duty for HY 2008-09 cending their refund claim. I find that Notification Noti 59/2001 OE dated 31.7 2001 is self-contained which provided for exemption of contail. excise duty asid through account content by way of relandire oreal, with the conditional and manner we specified therein. I area find that the appellars had opted for severeds of amount upder Pace 20 of the sold Notification, according to which the appellant themselves were required to actormise the amount to ambit their account outrent and then submit the requisite occumenta/information to the department, which the appoint aid on mostly basis as emvised in the Norficerical
- 7.2 If find that the appellant icok re-credit of orderensal a notice in April 2010, on the basis of the Hon'ble Coja at High Counts decision in the case of SAC afters Limited whereas the seld decision of the Hon'dle Counts High Court has not attained finality.

Ruge Ko. Son H

since the decardment has filed Special Leave Position against the said order bated 18.0.2010 and the Honbia Sucreme Cost tivide Cicle idsted 13.1.2012 has stayed the operation of the Positive Sighten ligh Courts next a Therefore the arguments of the appellant for suc-motoire credit cost of de accepted and inhelp that the appellant was not entered to take suc-motoired ared in April 2010 in respect of differential central excise duty paid on the godds change in FY 2009-09 as the same was not in accordance with the said Notification, which prevailes at the material time and also contratable as per the Contral Project Saw.

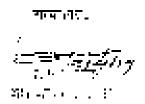
- Taking into consideration the above takinal position. I find that the appoint is established and work profile differential surgent for the case of decision of the Gujarat High Courtig version a case of an other party and also had not attained finality regner; be considered as position of exemption under testing type [No. 38/2001-CE cased 31.7-2001 since the appellant had taken one). Or shipps, the appoint content for the amount admissible to more at the end of cash more as por the said. Reffication and determination of eligible te credition on a was never distenged by them. Hence, find that the impugned order contiming recovery of re-tradead amount of Rail \$4,00.0344 alone with interest is correct logal a proces.
- ſ. The appeilant has contended that the demand is time parred since SCN was Issued on 29,2,2016 for recovery of sub-groß prodit taken by them in April, 2010. I find that the appellam had begon informed the department that they had taken sub-mobile proxition of differential schools of Central Eschae duty and the description can eller knowl only when the audit was conducted it also fee that Para 2.2(1) and Para 2.2(2) inserted. vice Notification No. 30/2008 OE date: 10.5/2/09 crowded that differential langual to be infunded to the manufacturer subject to condition that the total return made to him during the year, including the return of differential product did not exceed the total didly payable on the value addition whether at the rate specified in the Table or so the special rate fixed under Ps a 2.1 of the said No licetion and that differential arrount like on unitual basis was to be granted by way of retundionly. Honce, I find that there were no crovisions in Notification No. 38/2/901-QF dated 31.7.2201 on in Control Excise Law to tako was wasio oreal; of differential amount on annual basis. (horefore, appellantis diaim) Prist Pera 20 of the Notification is lowed to take to credit αυσκούου, since extract knoking. to the facts and occumulations of the present case, more so when, the appeals had taken predit of central expiso paid through appoint current at the bod of such murill, as provided in Notification No. 38/2001-OE cated 31.7 2001, as amended, sind these কিবাৰ have not been disputed at all . Turner line that this is not a case of non paymentehote. payment of contral excise duly or leaderly of occurs) excise duly ε: oneously refunded and therefore, provisions of Spotion 1.14 of the Act is not applicable in the present 2584. Hence, I find that BCN has agrilly been issued for moovery of zubknown credit taken.

 $H^{N}_{k+1}(S_{k+1},S_{k+1})$ 

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inegularly by the supposition when it came to the knowledge of the department at the time. of audit of the renurs of the approach

- The impugued order has surrough monsest penalty of Rg. 54,00,0344 under Section 11AC of the Act resolvith Rule 25 of the Rules (2002) Lind that the ingredients. or Section 11AC of the Actions Rule 25 of the Rules do exist in the present case as the appellent navor informed this fact to the department, Hence, the penalty imposed under Section 11AC of Actiread with Rule 25 of the Rules is correct, legal and proper and ... ophsic penalty of Ha. 54.00 0347-imposed on the adjourns.
- 113 In view of above. If uphote the imprepried order and misce this appear
- अपोजकता राजारा कर की गाँ३ अधार का निप्रधार उपरांचन तरीके में किया जाता है। ??
- ٠. The appeal filed by the appellant is discosed off in adove terms.



मधाल आयुग्ल (असील्स)

#### By Speed Post

M/s Anchor Floatrice's Phyate Limited, (formerly known as Ancher Dacswor.) <sub>i</sub> Survey No. 234 to 236 Blur Brackett Rose Millagə — Lakhond, Taiuks-Bhuj. i Kachaha-Guierati

सेतसे उंबर एळेबिट्टबच्स प्रदृषेट लिनिटेड. | Incustries Limited, Un ∵ . Electro Division), | (ਪੂਰੇ ਬਾਲ ਪੰਤਰ ਏਸ਼ੂ ਫ਼ਟਦਉੱਤਿ ਕਿੰਮਿੰਟੇਗ ਪ੍ਰਸਿੱਖ , ्रतेष्टिश्चम (त्रीश्च**स**् ਲਹੇ ਦੇ, ਅਮਾਨ 200 धन – अग्राट रोड. । ലെ വെട്ടാം ആവില്ലാ 

# गट

Τo,

- (1) बधार मुख्य आयुर्धाः कर्मीय कर्म् व सेवा तस्य एवं वेषक्रेय जानक शुक्तः अहराताबार क्षेत्र, अद्यादाकत् को ज्ञानकारी हत्।
- (2) आपुल्ल, केन्द्रीय करन् व संदर्भ कर एवं अल्द्रीय अस्पाद शुल्का ३, धीध भारती आवश्यक कार्यवाही। r. Ti
- (% सह ५४: ३ (५५) , केंग्रहीय ४-५५ व संचा कर एवं केन्द्रीय उत्पाद शुक्क अण्डल, भून भी अ ०४मक ⇒ येव:ऽी के 1

्रीया क्लेड सुव

