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- প্ৰদুষ্ঠাইনৈ ক'ব ক'ব পুনাৰ উঠি নিৰ্বাচনেই বিভিন্ন চেল্লায়ে ভালসমূহ দুৰ মুখিৰ বিভাগে বিভিন্ন বিভিন্ন উঠি নিৰ্বাচ পুৰু উঠিৰ মন্ত্ৰীয় প্ৰশিষ্ঠ উঠিৰ উঠিৰ মন্ত্ৰী মন্ত্ৰী ক'ব এই এই ক'ব কেন্দ্ৰ স্বাৰ্থ বিভূ <u>কয়</u>া ক'ব ক'বলৈ বিভিন্ন বিভিন্ন সময়কালৰ স্বাৰ্থ বিভ প্ৰকল বিভিন্ন সমূহিক Republication ক'বলৈ মহাৰ স্বাৰ্থ বিভূ <u>কয়</u>া ক'বলৈ ক'বলৈ বিভিন্ন বিভিন্ন সময়কালৰ স্বাৰ্থ বিভ প্ৰকল বিভিন্ন সমূহিক Republication ক'বলৈ মহাৰ স্বাৰ্থ বিভূ কয় ক'বলৈ বিভাগ ক'বলৈ বিভিন্ন বিভিন্ন বিভাগ ক'বলৈ বিভ τÇ
- ৰাছে একা এই বিষয়েন্দ্ৰ বিষয়ে ব্যক্তিৰ প্ৰথম হৈ বিষয়ে বিষয়ে বিষয়ে বিষয়েন্দ্ৰলৈ, ১৯৪১ বা মন্ত্ৰি এক কৰি নিজ কাই বিষয়েন্দ্ৰ বিষয়েন্দ্ৰ ইউন্নাৰ ইউনাৰ প্ৰথম হৈ বিষয়েন্দ্ৰ বিষয়েন্দ্ৰ বিষয়েন্দ্ৰ হৈ ৫.৫৫০ বিষয়েন্দ্ৰ বিষয আৰম্ভিয়া হয় বিষয়েন্দ্ৰ বিষয়েন্দ্ৰ সময়ে বিষয়েন্দ্ৰ সময়ে বিষয়েন্দ্ৰ হৈ লৈবে হাজে বিষয়েন্দ্ৰ হৈ বিষয়েন্দ্ আৰম্ভ হৈ হয় বিষয়েন্দ্ৰ বিষয়েন্দ্ৰ সময়েন্দ্ৰ হৈ বিষয়েন্দ্ৰ হৈ হৈছে বিষয়েন্দ্ৰ হৈ হয় বিষয়েন্দ্ৰ হৈ বিষয়েন্দ্ৰ বিষয়েন্দ্ৰ হৈ হৈছে বিষয়েন্দ্ৰ হৈ হৈছে বিষয়েন্দ্ৰ হৈ হৈছে বিষয়েন্দ্ৰ হৈ হৈছে বি আৰম্ভ হৈ হয়ে বিষয়েন্দ্ৰ বিষয়েন্দ্ৰ হৈ হৈছে বিষয়েন্দ আৰম্ভ হয়ে ব্যৱহাৰ বিষয়েন্দ্ৰ বিষয়েন্দ্ৰ হৈ হৈছে হয়েন্দ্ৰ হৈ হৈছে বিষয়েন্দ্ৰ হৈ হৈছে বিষয়েন্দ্ৰ হৈছে হৈছে হ 20
- ப்பு சல்வில் பிரையிற்றி என்ற நான் சாவில் புக்கேட்டைப்பிட்டிய கல் பிருப்பு தான்றியிற்று. எப்படி பிரியில் பெயிய கைப்புக்கதையில் பிருப்பில் சிலில் கணியான, dofasta நால் கூடைய கால் பிருப்புக்கு விருப்புக்குகள் பிறைப்புக்கு பிருப்பு புறியை விளியில் பிருப கற்றவில் நால் நால் பிரியில் பிருப்புக்குள் கால்ப்புக்குக் பிரையும். **Р**П.



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CORDER IN APPEAL

The Deputy Commissioner, Central GST Urban Division, Candhidham, as perdirections and authorization of the Commissioner, Cantral GSF, Gandhidham (Kutoh) (Ivale valler related in as "the Deportment") find present appeal against Order In-Original No. 68/Urban Ref/2017-n8 dated 21.1.2018 (hereinsiter referred to as "the impugned order") passed by the Assistors Commissioner, Central GST (Udbar) Division, Gandhidham (hereinafter referred to as "the lower adjudiceting authority") in the case of Miel Changule Brothers Pv., ctd., Office No. 211, 2rd Roct, Gold Com Complex, Plot No. 021, Ward 128, Gandhidham (hereinafter referred to as "the rescondent").

2. The chief facts of the case are that the respondent fued refund application on 5.7.2017 to refund of service tax of Rs. 28.43,8534 trais during Jahuary (2017 to Watch, 2017 on value of service) of transportation of goods in a vessel whose Bills of Lading were issues on (10.1.2017). The respondent submitted refund claim on the ground that the point of taxation in respect or this service has been stephed as the date of Sill of Lading of goods as per Natification No. 14/2017 ST pated 13.4.2017 made effective from 22.1.2017 read with CBEC Circular No. 296/4/2017-Service Tex dates 10.4.2017 claufying that he service has levelye if the Bill of Lading is of date on the 22.1.2017. The lower adjustcating authority vide shaughed order senctioned taxing dates.

2 Being aggrieved with the impugned order, the department preferred present appeal, intervial on the tollowing grounds: -

In this evident that the respondent has collected service tax of Rel 23.43.8584 from M/s. Gautash Froght Pvt. 1.td. pure agent or longip charterer/sperator of the vessel Me. Bugazici Deniz Tashnacilig: Hd. Tuckey (hereinaßer referred to as M/s. Bugazici Deniz Tashnacilig: Hd. Tuckey (hereinaßer referred to as M/s. Bugazici Deniz Gautam Encight Pvt. 1.td. nad chvicusly collected service tax from M/s. Bugazici Deniz and no evidence to contract, such presumption has been provided by the respondent or red time of filing refund claim; that the imagined order did not describe that M/s. Gautam Encight Pvt. 1.td. has not collected service tax from M/s. Bugazici Deniz or refunded the service tax to Wis. Bugazici Deniz or refunded the service tax to Wis. Bugazici Deniz or refunded the service tax to Wis. Bugazici Deniz or refunded the service tax to Wis. Bugazici Deniz or refunded the service tax to Wis. Bugazici Deniz or refunded the service tax to Wis. Bugazici Deniz or refunded the service tax to Wis. Bugazici Deniz or refunded the service tax to Wis. Bugazici Deniz or refunded the service tax to Wis. Bugazici Deniz or refunded the service tax to Wis. Bugazici Deniz tax had received back service tax amount.

(i) Once the burden of tax has been passed on by the rescondent to their customet any puts-quent event of returning isork of such service too in them customers does not eligible the respondent to claim retund of service tax and hence, the respondent was hit by bar of uppet or company date of the date of Reight Claim and this position was not altered any past organization.

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noturn of service toolby the tropped tool & iby the signer. The said aspect has been clarified vide Chroplet No. 317/384 Hold Ideast 19 S 1904 which has been grones by the lower adjudicating summing.

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(iii) The respondent like prodivers on the period reverse the generalization. Once the incidence of service text assigned passed on and it has but into the commercial chain of business transportants, 5, 5, 5, 5, 500 syndemicle to derive with full proof. evidence where such obside of respective and whe is actually going to home the incidence of zeroice as a low write of transaction under arms length. there remains no control over eaching an eaching on. The impugned order dis not ifollow the facts to explain as rolling which on pic 1, Mid. Gaussim Freight Pvr. 1 to had been considered to get service textback, patch, bits, when no evidence of service tax. amount received by the respondent 2 to MAL Gatham Prught Pot 1 M are made. available for solution. The transaction coards from the depit note and prept note are not conclusive sylpence looking to keel (up between the dates of debit note and date. of credit note leaving veride the sense time of the ling of service tax subsequent to thing of refund dialm. Her cert if is even this toy, respondent had originally passed on incidence of service reality M/s. Gs Mark Fringst Pyt 1 td. of some other person in the time of providing service and Mar. Content in a gift Pwt. Editor such other person in tum had bessed on the (station of persons for K: M/s, Bogazici Deriz (puncipal). or any other person. Therefore, remain of kervice tex sensitioned vide impugned order. is insomissible to the rosponders' and the mild and mild another label could have been credited to the consume tableare race, even if the same was found sandlionable.

(iv) The resounders bas not specified to be of Rabinoo Shoot/Prufil & Loss account for the relevant period and which there each of amount of service law paid by them in their books of possible on their visiter the served has was borne by themselves of otherwest and no rock has been taken by the lower adjuditating authority to call for the cupies of balance Shoet and Profit & Loss account of Ma. Osulari Preight Pvt and for the role on optical showing treatment given in their accounts in respect of service (service) by their optical showing treatment given in their thereof that showed has been oblighted by their optical (Ms. Begaziti Deniz) or any other period

(v) The respondent has non-collar-sized by involces salaed by them to Ma. Gauten Theight (Vt. Ltd., Bark reminiance cardinales) communication from their oversees client, computation of remove seal etc. At the time of filing of refund daim or at subsequent stage of propeed 5(5). The adspondent submitted Certificate dates 20.10/2017 from the Charteret According to based on accords of the respondent bat not on the basis of records of Max Station. Storget Patilities lead to an inference that



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Mix Gautam Preight Pvr. Into have not passed on service tex to their clients and had been borne by them. Thus, iffere is no documentary evidence to determine the eligibility for claiming refund by none other than the respondent and that the incidence of service tax was not passed on and was borne by M/s. Gautam Preight Pvs. Fid. or the respondent of any other present in absonce of conclusive evidence, the respondent la not eligible for refund of service tax. It le not the case of the respondent that services tax has been paid under protect on direction of the softency but the respondent has paid service fax all his own.

ST 3 rorum filed by the respondent for the pariod endos (Merch, 2014 dis not) (vi) show approxitian data by them on 7.3.2017 under reverse charge. If was the claim of the respondent that they paid service tax in pursuers to Notification No. 2/2017-Service Tax and Notification No. 3/2017-ST both dated 12 1 2017, made applicable from 22 1.2017, hence lat the Spielof payment of service tax, there was no reason for the respondent to consider it as excessible paid service tax and accore right it must have teen raflected in their books of accounts for HY 2016-17 which were placed. Prior to Not fication No. 14/2017 ST dated 13:4:2017 and CBEC Circular No.208/4/2017 ST dated 13.4 2017, it was beyond purview of the respondent to consider payment of service tax as an excess payment. Hence, even if the service tax was not eviable inrespect of services provided by the principal of the respondent, the same has seen. fully consumed by the reacondent as well as M/s. Gautani Freight Pvt. Ltd. of any other person augmenting the incidence of service tax and therefore, refund amount, was required to be credited to the Consumer Weitate Fund presuming the Incidence. of service tax has been passed on to any other person.

(vii) The respondent field refund daim of service fax relemns to Nathoation No. 14/2017 ST dated 15.4.2017 but nowhere in the said Notification it has been authorized that the respondent of any other person can claim refund of service can if paid oner to issue or the said Notification. It is not a case of the respondent that the payment of service tax made by them on 7.3.2017 either under mistake or under compulsion or and an misunderstanding of statutory provision. Thus, any amiltary process due to failure of the respondent to understand the legal provision does not make the respondent eutomatically entitled for return of service tax paid.

(viii) In any case, service has been collected by the respondent from any other acrean which was not required to be collected in any manner as representing service text, the respondent should day the amount so collected to the credit of Government under Section 70A(2) of the Finance Act, 1994 (hereinafter referred to as the Act'). Even if the version of the respondent is accepted it can be construed that the payment efficiency of the respondent is accepted it can be construed that the payment efficiency of the respondent was required to be acjusted against.



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second tax payable by the respondent on the control who had borne the Heidence of such amount may supply found to under had on 73A(6) of the Actintence instand securioned by the lower adjustering pultering under Section 11R of the Cristial Excise Act, 1944 respond Section 33, 34 a Actine was not legal and proper.

fix). Entitioment of returns growing by size of fling of daim. The impligned other is but uslegationly confirming that par-outhement of the respondent on the date of Bing of refund claim since (hey use he reduced the amount mody and by mem-In the Jane of service to the rendemed betach. As per submissions of the respondent, they first issued credit took or feast the? Mist Gautani Freight Pel, Ltd. on. 26.3.2017 and then released law species minuals thegue dated 17.10.2017. Thus, the submission of the respondent every on the basis of ones throle dated 28.6.2017. does not sustain. As per accounting principle, in risbit nord on a prodit note generally. issued as a consequence of actres involter in the present case, the transaction relates to sidepit note dated S1 3 3017 and given's role dated 25 3 2017, but there is two relationship laterapted to be skewined whit extense to a particular involce. giving impression that the transactions without following involve pallern is now genuine, it is not following from the faces parts of by the respondent in their clear. whather be transaction in terms of predicinklys called 23.6.2017 was a follow up of reduction in source invoke value or followed by reduction in invoice value with reference to particulars or a review) shocle issued in support that credit note dated. 28,6 2017, to the absence of authenticity of revised involve, the existence of involve. and area's note containburit pouse. Severilitiquated as a mischief of account entries. and abound accounting method while, the claim, of the rescondent is not on sound forcing. The department relied on fnilowing case laws in suspoil of their contentions.

- Hindustar Petrolaum Corporation Umited 2014 TIOL 655 CESTAT-MUM.
- Addision & Co. Ltd. (2018 (539) Ci T 177 (SC)).
- Sahayari Khand Hdyag Mandai Exit 2005 (181) ELT 528 (SC).
- Kiritri Constructions 2016 (42) STR 301 (1n. Bang.).
- S.S. Memori & Company 2010 (27) STR 41 (10. Ahmd.).

(x) The presumption under Section 128 of the Central Excise Arr. 1944 is underliably raised to state that the incidence of service tax 6 passed on to their principal. Ws. Bogazier Deniz of to any other person. Hence, the respondent has to establish with evidence that the service iax baseds on to their principal was returned to the annotation any other person who home the incidence of service tax. In establish that the incidence of person the presumption stands un-returned. When the involves raised are such that the incidence of service tax has been passed on the presumption under Section 128 of the Central Hards of Arr. 1944 comes into application and the documents provided by the respondent, are poll sufficient to rebut the statutory.



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prosumption. The department relies on the decision in the case of J R. Francformer TPVL Ltd. recorded as 2014 (38) STR 1167 (Tri. -- Del.)

(xi) The amount mentioned in the challens showing payment of service tax submitted by the respondent were not matched with sorvice tax lavable from the respondent against value of doesn treight mentioned in respective invoices for which refund has been channed.

4. Personal hearing in the malter was attended to by Ms. Privatika Patel. Advocate on behalf of the respondent, who reitorated the grounds of appeal anal submittee that the implighted order is contex, as they have obten Rs. 28,43,8584 to their agent Wo/ Gautam ∺reight Pvt. Lto, and hence, refund is payable to them; or query that Mis, Gaulani Freight Fvl. Ltd. still have this amount with them though showing refundable to M/s. Regazio Ueniz Tasimeologi Ltd., Tudwy but have not refunded to them, she submitted that M/s. Cautam Freight Pvt. Ltd. will give articavit. or path that this amount shall be actually credited/given to M/s. Bogazici Denizi Tasimediigi Irea, Turkny within the days from the bate of records of Order-in-Appeal and/or solvee by M/e. Chowgute Brothers Pv., Ltd., whichever is earlier that the respondent shall a se give as affidavit on path that they will credit consumer welfare. fund by Rs. 28,43 856/ if within SC pays. Rs. 28,43 856/ is not relunded by their l principal lie. M/s. Gautare Freight Pvt. Ltd. /c. W/s. Regaziei Deniz Tasimaeiligi Ltd., . Texes, if at she also confirmed that Mix Gautam Freight PvI. Uld. have busisess. with M/s. Bogazio: Denizi Tasımediği Etd., Türkey əven now: that they have paid Hs., 25/43.858/ In M/s. Gautam Erricht PM. Ind. and hence, refund in them is conrect. legal & proper and they have not been benefitted twice.

FINDINGS:

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5. If have careauly gone through the facts of the case, the impugated order the grounds of appeal (led by the department and the submissions made by the respondent thoughing during persons thearing. I find that this being the case of refund, provisions of Section SSF of the Central Excess Act, 1944 are not applicable. The result to be depided in the present case is as to whether sanctoring of refund claim of service tax paid by the respondent on service of transportation of goods in a vessel unitiary cases of on the incidence of service tax by the respondent on the research data of the foreign charterer/operator of the vessel service care the foreign charterer/operator and later on refunct service car through one charterer/operator and later on refunct service car through one charterer/operator and later on refunct service car through one charterer/operator and later on refunct.

E It le undiapoted fact that the respondent had in the capacity of shipping agent cald service for \$1,9,9,9,28,43,656/ on service of transportation of groots in a vessel vide Charley dates 7.3,2217 in terms of Notification No. 2,2017-ST and Notification

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No. 3/2017-61 both dated 12.1.2011 and 20 entod sorvice tax from M/s. Bogazid Debit through M/s. Gaulant Hog, 121 J. 133, 5.3 soruently, the Central Government vice Notification No. 14:2057 SC Ranke 10.4 effect water officitive from 22.1.2017, notified date of 888 of Lording to tax (2015, 05.5 Job n. Since the date of 888 of Lording to tax (2015, 05.5 Job n. Since the date of 888 of Lording to tax (2015, 05.5 Job n. Since the date of 888 of Lording to tax (2015, 05.5 Job n. Since the date of 888 of Lording to tax (2015, 05.5 Job n. Since the date of 888 of Lording to tax (2015, 05.5 Job n. Since the date of 888 of Lording to tax (2015, 05.5 Job n. Since the date of 888 of Lording to tax (2015, 05.5 Job n. Since the date of 888 of Lording to tax (2015, 05.5 Job n. Since the date of 888 of Lording to tax (2015, 05.5 Job n. Since the date of 888 of Lording to tax (2015, 05.5 Job n. Since the date of 888 of Lording to tax (2015, 05.5 Job n. Since the date of 888 of Lording to tax (2015, 05.5 Job n. Since the date of 888 of Lording to tax (2015, 05.5 Job n. Since the date of 888 of Lording to tax (2015, 05.5 Job n. Since the date of 888 of Lording to tax (2015, 05.5 Job n. Since tax (2017, 0

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I find that the Reportment I- action is the steam this service tax paid by the resounders as no tax can be sufficient instance subhody of law which this service tax was/is not bayable by the respondent to the respondent in view of Notification No. 14/2017 ST dated 13 4.2017, made election from 22 1 2017 and clarification should vide CBEC Circular No. 2004/2017-Service 11ax dated 10.4.2017. Hence, the amount of Ro. 28,45,668- has to be *lectriced by instances* through a per law.

3. The separated bas contone on that the refund claim was hill by bar of unjust encoment and that once the burden of tax has been passed on by the respondent to their cualumer any subsequent event of returning back of each envice tax to their customers does not make the respondent eligible to claim return of service tex from the department; that the implignen order has not described whether Mys. Goutam Froght Pvt. Ltd. have returded the selvice tex to Wis. Duratici Center

6.1I find that Section 132 of the Central Excise Act, 1944 has been mode. soplicable to service tax matrops by wrate of Section 33 of the Act, which provides that service ray emount, as determined by the Aselstant Commissioner of Central, Excise or Deputy Commissioner of Cellural Excise shall instead of being i credited to the Fund, so paid to me, applicant, if such amount is relatable to service tax paid by the person if the incidence of psyment or service tax has not been passed on to any other peakon. In the present case, as it evidentifican the records and Certificate of the Chartered Accountant that the respondent and initially passed on indicense of service tax to Misli Gastani Freight Pvt. Cit, who passed on indicence of service lax. to M/s. Begazici Ceniz, betweeter consequent upon issuance of Norification No. 14/2017 ST dated 13.4.2017 specifying date of 61l of Lading as point of taxation, the resonatem returned service tax by issuing credit note and subsequently also assed. Cheque No. 406528 dated 17.10.2017 for Re. 28,43.5589 in favour of Mis. Cautami Freight PvL Ltd., their principal (towever, it find that the respondent has not eventitied any conclusive evidence estectishing that principal of the respondent (c) M/s. Cautern Freight PvI. Eld, has also returned Hall 28 43,8584 to M/s. Bogazian Heriz, who utimately pare the incidence of service tax in view of these facts and



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circumstances — am of the considered view that the reapondent is not entitled for refund since they failed to establish by providing documentary evidences that Rs 28.43,858/- returned by them to M/s. Gautam Treight Pvt. Ltd. have also passed on this smount to M/s. Bogazici Deniz at the time of filling of refund claim or even at this appeal stage

6.2 My views are supcorted by the judgment of the Hon'ble Supreme Court in the case of Addieton & Co. Ed. reported as 2018 (339) E ILT, 177 (S.C.) wherein times been hold as under -

16 In the instant case, the Assessee has admitted that the incidence of duty was indirially passed on to the buyer. There is no material bought on record to show that the outer to whom the incidence of duty was passed on by the Assessee did not pass it on to any other person. There is a statutory presumption under Societion 128 of the Act that the two has been passed on to the utimate consumer. It is clear from the facts of the instant case that the duty which was originally daid by the Assessee was passed on. The refund claimed by the Assessee is for an amount which is part of the excise duty and earlier and passed on. The Assessee who did not hear the burder of the duty, though entitled to claim deputtion, is not entitled for a refund as he would be unusity enriched.

It will be useful to refer to the rismoant back of *Mahillal indushies* v. *Union* or *India* (supration this connection.

n0° (iii) A starm for refund, whielber mode sector the provisions of the Aut as contemplated in Proposition (ii) above or in a sun or writ perified in the situations. contemplated by Proposition (ii) above, can succeed only If the certonen)dentificatiegee and estativishes <u>that he has</u> not passed on the burden of duity to another person/other persons. His refund plaim shall be sliowed/decreed only when he establishes that he has not passed on the hurden. of the duty or to the extentine has not so passed on, as the naso may be. Whether the claim for institution is theaped as: a constitutional imperative or as a statutory requirement, it is neither an etsolute right nor en uncoaditionel obligation. but is subject to the above requirement, as explained in the body of the locgraent. Where the burden of the duty has heen passed on, the clamant cannot say that lie has suffered any real loss or prejudice. The real loss of prejudice is suffered in such a case by the person who has ultimately borne the purden and it is only that person who can legitinately claim its refund. But where such persondoes not come torward or where it is not possible to actual the amount to him for one or the order reason, it is just and appropriate that that amount is reteried by the State. I.e., by the people. These is no immerality or increasivy, involved in such a proposition.

The dorbine of unjust emission is a just and estimaty doctand. No person can seek to collect the duty from beth rends. In other words, he cannot collect the duty from his spircheson et one and and also collect the same duty from the cargo on the ground that it has been collected from him spectra and law. The power of the Court is not meant to be

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exercises for in as the telepidik years . The dectrine of unust encoment is, the even reachidable to the Bisle. State memorys is a constant of sourcey. No nee can speak of the proportional inguistic stronged.

17. Section (1) B(2) of the AD patients As 3 Bat the amount of rafand determined by the AD provide of of the CPC to the fund. The Provise to Section 11B(2) permits Provide the AD prior to the prior by the approach instead of being predited to the CDD 4 could amount is related to the CDD 4 could amount is related to the manufacturer. The bright of a motified by the Centre Covergement.

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21 That a consumer say make an application for refund is dear from parea \$8 and \$9 of the judgetest of \$6. Court in Matathal instastries. (supra). We are sound by this said bracelys of a Larger Bench of the Coart, the word (bayer) in Stacsel(e) to provise to Section 118(2) of the As, cannot be restricted to two first project from the menutactures. Attother submitted on which remains to be considered in the requirement. <u>of verfication to be</u> d<u>on</u>e fo<u>r</u> the pérpession finding out who allimately i gare the bag<u>den of excise daty. It might be officult to identify who has</u> scaually come the balden but aver vertication would definitely assist the Revenue in finding out whather the manufacturer or buyer who <u>makes an appinaling for relyied are being up your engines. If it is not</u> possible to iden(ny file persys/hersphs who have borne the duly, the <u>amount of excise duty acyectory in excepts will remain at the tund whi</u>ch. will be utilized for the benefit of the consumers as provided in Section. <u>- 7</u>[]

(Emphasis supplied)

Ц X. In view of the facts of this present case, and the above judgment pronounces. by the Hon'sle Sucremo Court of in given that it is not sufficient to prove that the respondent is not get no unjust eventsmeat but also that ais principal is not being. emoned in unjust manner and that WS, Bogazio: Centr, which has uturnately home. the indicates of service tax predict to be paid used and therefore. The respondent was required to establish that service tax of Rs. 23.43.8569 rotumod by thom to Mis. Gaurant Entight Pvt, Life, has actually teen returned to M/a. Bogazid Denizi who is the ultimate parson, who has being the incidence of service law of Rs. 28(43,858)-. Fonce, I am of the cursidered view that the respondent is not entitled for refund of service tex of Rs. 26,43,0554 since may failed to establish that neither they nor their i principal ite. Mis. Gaulain Freight Pvt. .td. was gotting unjust enrichment. Hence, the implighted order some oning refund of service lax of Ro. 28,43,858/- in fevour of the respondent is not correct, legal and parties and is required to be set acide. Therefore, (he (4) mp of Rs. 28,43,958), pad to the respondent is required to be recovered from tham to credit Consumer Welfare Fund.

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Fage Ko. 10 of 11



9. In view of above , set askie ine microgrep order and allow the appoal find by the department with direction to the refursh careconing authority to recover the refunded amount of *Rs*, 28/43,853/- from the respondent and credit consumer welfare fund for both.

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९ ८ 🐘 'रेपा हेमेंट दवारा दर्ज की गई अमील का जिपटास उपरोक्त तरीके से किया जाता है।

9.1 The appeal filed by tan department is apposed off as enrore.

 	्रिये के दिस्त के दि इस्राद संतीय) इस्राद आयुवन (अपॉल्स)
Bγ <u>Speed Poet</u> Ta,	
(i) The Commissioner. Central CS7. Gardhidham (Kutch).	 अधुवन देवदीय गस्तू त सेत्र(कर गोधीगम् (क.इ)
 (i) Me. Chowgule Brothors Pvt I Office No. 211, 2nd floer, Guld Coin Complex, Pict No. 321, V 12B. Gardhionain 	ाल ())) दी चौर्गुर्श केल्सी प्रार हैंडोंसेटेझ

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(1) রখান মুহর আয়হর, কিংরীন ব z_{1} া হার, এনের, অনুমরানার ঐস, অচনবাঙ্গার কা ও লকাং ী z_{2}^{*}

(?) सङ्घ्यक ऑफुल, केन्द्रीय वस्तु व संज्ञालय, अलेग २०७७, गांधीय पा को अक्षरवक कार्यलही। हेतु ।

્રક) માટે ખાદન .

 $M_{\rm eff} \simeq M_{\odot} = 11 \simeq 12$

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