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- মনি বিভাগ নিৰ্বাগনৰ প্ৰথম নাৰ প্ৰথম নিৰ্বাগন নিৰ্বাগন বিভাগ কৈ বিভাগ সম্পৰ্ক কৰি হৈছে। বিভাগন বিভাগ কৰে বিভাগন ক উপা নিৰ্বাগন কৰে বিভাগ কৰে এই জাৱা প্ৰথম নিৰ্বাগন কৰে হৈছে। মাজিৰে উপা কৈ বিভাগ বিভাগন কৰে বিভাগন কৰে বিভাগ সম্প প্ৰথম কৰে বিভাগ কৰে বিভাগন কৰে বিভাগ কৰে বিভাগ বিভাগ নিৰ্বাগন কৰে বিভাগন কৰে বিভাগন কৰে বিভাগ কৰে বিভাগ কৰে বিভ সামপ্ৰ মোৰ বিভাগ কৰে বিভাগন কৰে বিভাগ কৰে বিভাগ বিভাগ নিৰ্বাগন কৰে বিভাগ বিভাগন কৰে বিভাগ কৰে বিভাগ কৰে বিভাগ ক সম্পৰ্য মাজ বিভাগ কৰে বিভাগ কৰে বিভাগ বিভাগ বিভাগ ব সম্পৰ্য মন্ত্ৰ বিভাগ ব সম্পৰ্য মন্ত্ৰ বিভাগ ব সম্পৰ্য মন্ত্ৰ বিভাগ eventing of
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- ন্দ্ৰটো ভাগত নিৰ্বাচন কৰা বিভাগ হৈ উপৰি ইউজ সেঁজেলে। জাইল মান্দ্ৰটো 'বা বা বিভাগ কৰা বিভাগ কৰা বিভাগ কৰা হৈ আই আ আইল আন আইলেল (প্ৰত্যু সাইজেল উইজ পাঁইটিলেন প্ৰায় হৈ । ২৫ টেই দেশ নাৰ্চটো ভাগৰ জাইলে কৰি চাৰ্চটো হৈছে বিভাগ কৰা বাইলে আন মান্দ্ৰটো l at

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ৰ চাৰ্চৰ আজল পৰি মান্যপিয়া কৰে উপৰাদেও সংঘটি বা এই বা এই বা এই বা এই বা এই বুঁ বিৰুদ্ধ লোৱা এই চাৰি পিছে বুঁ ক প্ৰায় উপৰুদ্ধ উপৰ কাৰ্য কৰে বিৰুদ্ধ নাম কৰি বা বুঁই বা এই বৰু আজল কি মান্য সুৰ প্ৰতি সাম কৰে জিলে কি প্ৰথম লোৱা ই বাহিয়া লগা ইয়া ভাৱৰ বৰু মুখল নাম সময় যে বা পৰি মান্য বিৰুদ্ধ নিৰ্বাচিত হয়। মান্য মান্য কৰে জিলে বিৰুদ্ধ লোৱা মান্য কৰি আৰু আছিল ব 121

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- প্ৰশিক্ষা গ্ৰহমান হয়। মান উদ্যায়িয়া হৈছে বিভাগ কৰা বুজাৰ বৰু প্ৰথম কৰা বুলি হৈছে। ক'ব প্ৰথম কৰা বুলি বিভাগ কৰা বুলি বিভাগ কৰা বুলি বিভাগ বিভাগ বিভাগ হৈছে প্ৰথম কৰি প্ৰথম মহেলে কৰে বিভাগ কৰি বা জ ক'ব পিছত বা প্ৰথম কৰা বিভাগ বিভাগ বিভাগ বিভাগ বিভাগ বিভাগ হৈছে বিভাগ হৈছে বিভাগ কৰা বিভাগ বিভাগ বিভাগ বিভাগ বিভা বিভাগ হৈছে বিভাগ হৈছে বিভাগ বিভাগ বিভাগ বিভাগ বিভাগ বিভাগ LáI. n norman ng tanàna ao amin'ny tanàna mandritry aristra 1808. Ao amin'ny kaodim-paositra dia mampika dia mampika Ny INSEE dia mampika mampikambana mandritra dia mampikambana dia dia
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- alar nang dada tawa aga ang akang anali ing nang ang kanalané, kénalak, sabah dising termentek kerentek kerent Alarah menduluk berata atawa kerentek kerentek barang par Alarah manala barang atawa kerentek ang kanala atawa nang karang karang karang bara Canana akata dar barang Sayah manalah tawa di Tangang agi tawa, 1933 it.
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:: ORDER IN APPEAL 3:

Mis Marth, Siles Put Up, Plot No 53, 55 & :GH GHC Ghite Bravnagat (horeina/tor referred to as "Appellant") have filed appeals agains: Orders-In-Orginal No = 27 to 31/2009e/Demend/2019-17 dated 21.09.2017 (berevial/or colored to as "the incligance ofter) passed by the Assistant Commissioner Cerbiel Exclose City Division, Bravnaga (berekieffer referred to as "the lower adjudicating authority").

2. The brief facts of the case are that the appellant provides detailed information regarding availment and utilization of Cenval credit of Service Tax paid on outward transportation of goods on being asked by the Hange Superintendent. The scrutny of information revealed that the appellant during the period availed Cenval credit of scruce fax paid on cutware transportation of the broaned goods beyond the place of removal as under :

Sr. No.	Show Cause Notice No.	SCN (date	Amount	Period Invalved
1	V/15-57/Demano-Madhu Silica/2009-10		Rs. 11,3417	April-09 is nov-09
1.	Ak 17Ean.Ex75CN Madbu GTA 77310-11	07.09.794D	27,1117	Dec 09 to Mar 10
3.	AB-1/Cen.Ex/SCN-Avdhu- 6TA-AFR-10 to 0-t-10 72010-11	28.12.2010	;e3,309/-" 	7/p-10 to 0c-10 i
1.	AR-1/Den//Madhu Stucz- DUII/2011-12	26.09.2011	51.7477+	Way-10 to Mar-11
<u> </u>	AR-1/Den//Madhu 5 Jica- 	02.01.2012	97,933/- 	, Арл-1≓ to Sep-11

2.1 Show Cause Notices were issued to the appellant for recovery or wrongly evolutil Lenval credit along with latenest under Rule 14 of the Cenval Credit Sules. 2004 (bereinafter referred to as "the CCR) read with Section 11A of the Central Excise Act, 1944 (bereinafter referred to as "the CCR) read with Section 11A demands of wrongly availed Crevet credit were confirmed latengies. And penalty also imposed under Rule 15(1) of the Rules read with Section 11AC(*) of the Act by the lower adjudicating authority vide imposed order.

3. Being aggiteved with the impligant order, the appellant preferred the present appeals on the grounds that judgment of the Hor De High Court of Kolkatta in the case of CCE Vs. Vesuvisus india 11d. reported as 2014(34) STR 26 (Kol) discussed by the lower adjacenting authority in the isotogred orders is not applicable maximum. The said judgment is dated 28.11.2013 watereds on CESTAT. Altmedapart (3.01.2014) in the case of United Phespharus Ltd. reported as 2015 (46) STR 662 (10 Ahmd) at Part 4 held as under to

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74 Hear's learned AR. The main lasses implied in the present appendant framed by the first appendate surface part of the Archeven-Appendate during the period function 2015 to September 2016 the Countercount of the last of the period function 2015 to September 2016 the Countercount of the last of the period function of the last of the period for the period of the period for the period of the period is submariable in the responsation of not appendiate earlier of temperation in the period of temperation is chosen of CESTAT Larger Dendu adjacent in the two of ARB formed the period of the period of

"9). We must, non-ever, for any convergence of the end exclose "from the place of convergence" or extreme in the eacher part of the definition with marks "up to the clace of convergence in methods a manufacture part of the definition with marks products from the fortune of the definition of the first of the definition of the first of the

22 . The likel to it may, we are at the optimum dust the annumed compare service when by the many constraint for comparison of the process of the many constraint for the process of the constraint of the distribution of the distribution

 2π . We around the question economic η is further of the arctice and equivalent the Revenue. "

3.1 The Appellant also relied upon a judgment of the Hor ble High Court of Kathataka in the case of Ultrasech Commit Ltd. reported as 2016 (44) STR 777 (82.1): that the decisions cited by their before the tower acjudicating authority have brien distanced by him without proper appreciation: that the lower adjudicating authority has also not considered the decision of the jurisdictional Lommissioner(Appeals), Bajket given vide Order in-Appeal vide BHV-EXCUS-300-APP-043-2015-16 dated 26.11.2015 and Order-in-Appeal vide DHV-D(203-300-APP-043-2015-16 dated 26.11.2015

3.2 The Appeliant Contended that Imposition of penalty on the misinot proper since the issue was debatable and it involved interpretation of law and as per sectled legal bosition penalty is not imposable when the question of interpretation of law is involved and relied upon the reliaiving case laws in this regard:-

Ú.	Amouja Comonts Ltd.	2009(14) SHR 5(PCL);
(I .)	K55 Pantos Utd.	2011 (24) 5TR 642(Bolti);
(n)	CUL VS. ABI Ltd.	2011 (23) STR 97 (Karl);
(17)	CCE Vs. Parth Paly Wooven P. Ltd	2012 (25) 5TR 4 (Cruc):

 $P_{2,0}(H) \neq 0.01$

- 5 -

(el	Ultralech Cement Ltd.	2054 (35) STR 751 (Tr -Bel);
(M)	Offratech Lorrent Ltd.	2014 (307) ELT J (Chat'gam);
(vu)	Jurta Corporation Ltd.	2016 (45) STR 103 (Tri- All).

4. Personal heating in the marger was accounted by 5hm R. R. Cave, Consultant on behalf of the Appellant wherein he reiterized the grounds of Appeal and submitted that Rule 10 of the Place of Provisions of Vervices Rules, 2012 says that in case of Goods Transmort Agency service. Ideation of person liable, to pay service texishall be the place of praviding services) that in their warehouse wherefrom the goods are transported shall be place of removal; that Cenval Credit at Service Texion Goods Transport Agency upto buyer's premises is available to them as per indepted of CF, Widdoore Vs. Gujarat Guardian Ted, and a copy of that judgment was given; that in view of chave, their all appeals hered to be allowed. No one appeared from the Department despite personal heating ratics issued to the Commissionerate.

4.1 The appellant also submitted #H written submission and contended that as per Rule 10 of the Place of Provisions of Services Rules, 2012, I should be destination of the goods and therefore, services of autward transportation continue tail door step of buyers' under definition of mout services as provided under Rule 2(1) of the Rules.

FINDINGS :-

5. It have carefully gone through the facts of the case, impligned order, grannes of appeal and submissions made by Appellant. The lissue to be decided in the present appears is that whether the incoughed order passed by the adjudicating authority clearlowing Cenval credit of Service Tax pate on Outward transportation is correct, legal and property otherwise.

 I find that definition of Maput service? as provided under Rule 2(0) of Lenvat Credit Roles. 2004 reads as undert-

- *(i) Input service1 meens any service-
 - $B_{\rm eff}^{\rm eff}$ would be a maximizer of coscillar service for providing on output deriver w
 - (9) great by the manager times, whether directly or hiddressly, in or in relation to the manager are of fitted produces and clearance of paral produces and the place of removes.

and actuates reveales used is relation to certing an inchermonitor remember of tenedits of a factory, premises of provider of relating an encoded relating in some factory or premises, when the work or takes promotion, marked to encode a factory, provider of marked to encode a take the encoded of provider of marked to encode a take the encoded of provider of marked to encode a take the encoded of provider and the encoded of marked to encode a take the encoded of provider and the encoded of the encoded o

ė. Frank the above, it is observed that "input service" means any service. used by the manufacturer, whather directly or indirectly, in or in relation to manufacture of final products and choranics of final products up to the place of removal, with the inclusion of outward transportation up to the place of removal. It is, therefore, evident that as per main clause. The service should be used by the manufacturer which has direct or indirect relation with the manufacture of final products and clearance of final products up to the place of removal and also the inclusive clause recuricus the converted transportation up to the place of removal. The place of repayal like seen defined under Section 4 of the Act. As pet Section 4(3)(b) of the Arry "proce or removal" means a factory or any other place or premises of production or manufacture of everywhile goods; a warehouse. of any other place of premises wherein the excisable goods have been permitted. to be stored without payment of duty or a depait, precises of a consignment. agent or any other place or premises from where the excisible goods are to besold.

A shift that the issue is no more verifylegra and the signific Supremotion of vice parameters and 01.09.2018 to the case of Ultratech Cement Ltd reported as 2018-TIOL-12-50-CX has held as under :

14. As mentioned alone, the assesses to involved in packing and clearing of centrum. It is supposed to pay for some for on the cforeacil versities. At the same first, if it contributes to and the henefit of central treat in respect of any liquit versities (to paid in the instant orea, input service tex was also paid on the superior framsportation of the goods from factory to the originative of premises of which the assesses choosed the centry. The newstrate is as to ellecter it can be treated on the original versity.

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5. Supple services in defined in Role 2(1) of the Rules, 2000 which reads as under:

(29) "mout service" means any service.

(). Used by a provider of familie service for providing an output services; or

(II) Used by the himself interval whether directly or indirectly, in or in relation in the mean/instance of final products and classance or final products up to the place of removal and thouses scorees used in vehicles on verying up, magazilization, tenovation of repairs of a factory, premises of crowder of himplif wereinent on office relating to such factory or premises, advertisement in soles promotion, market research, scarage up to the place of removal, producting, financing recrutities relating to business, with an accountly g, auditing, financing recrutition and creating normal, counting and human, remported astronomics, includes a capital words and pulles registry, and security, inward transportation of inputs or capital words and pullward humpertation open the place of removal?

is of is an arbitrary position that the instant case does not fall in suc-mass (), and the issue is to be decided on the application of sub-clause (0). Relating of the operasoid provision makes () clear that those services are included which are used by the manufacturer, whether absently in inducedly, in or in relation to the charafacturer of final positions and elemence of final products, upto the place of removal.

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7. It has be relevant to point out here that the original definition of "input service' contained to Rate 200 of the Rules, 2004 used the expression from the place of removal. As per the worl definition, source used by the monoful lines of cleanships of rinot products firms the plane of remember to the warehouse of pertainer's chore etc., was axistible for Lennat Credit, This status (0000) decided in Civil Append No. 11710 of 2016 (Committation of Central Divise Selection P. Mis. Vasavadatta Coments Ital) vide judynesis Acred January 17, 2010. However, wide amendment carried but in the aforesain Rules in the year 2000, which have effective from known, 2004, the word from is reviewed by the word function Thes, in is only finite the place of nerroral that control is located as input service. This encodinged has charged the entitle accorder. The barefit which was applied as were reword the place of removed upw gets (equivalent of ${\mathfrak m}$ the place of renewal part doors to the select creater or input factorial gets closed. at that place. This medit amnat travel therefrom it becomes their form the have reading of this amended Rule, which applies to the puriod in question that the Goods Transport Agency service used for the purpose of autword transportation of goods, i.e. (run) the factory to concurses a president, is not covered within the amolt of Rate 2(Sn) of Kulez, 2004. Whereas the world (1004) is the indicator of starting family the explosion capital significant the compacting point, putting an and to the Dansourt journey. We, therefore, find that the Adjusticating Authority was right in interpreting Rule 24) in the following ninnes :

"... The apple parvise has been defined to mean any service used by the example three whether directly or indirectly and nist includes. interadial pervices used in relation to move diamagenzation of against ar expert geods and outward transportation upto the place $q^{
m c}$ renoval. The two clauses in the definition of 'front services' take care. encircumentals, input condit by stating that service used in existion to the clearance from the place of removal and service used for contained transportation unto the piece of removal are to be treated as types. version. The first choice does not mention throughout set $d\alpha$ $t\gamma$ parameter. The second charge restricts transport service result of the the place of removal. When these two elevees are read together. A cercanes clear that linnaport services credit amost go beyond. (nongere) up to the phase of reasonal. The two discuss, like one double with general provision and other dealing with a specific item, we walto be read alstanceively to as is none about conjuct to defaul the laws science. The partaine of intercontation is to find partnersy and reconcilitation among the various provisions

 Credit availability is in regara to "repols". The credit <u>covers date</u> <u>peld on mout materials is well as tax prid on services, used at or m</u> relation to the manufacture of the final models if. The final products, manufactured by the assesses in their factory premises well more the final photoes are fully used for the and elected from the focusity gramiyes. the measion of addivation of worker ones not prize as sumservices cannot be considered as used in <u>relation in the atmosphere</u> of the final preduct. Therefore, extending the credit ge<u>yond the redict</u> of removal of the final position on anyment of duby would be contrary to the scheme of Cerrval (Credi<u>t Ender</u>). The owno charge in the definition states that the service in regard to which credit of ion Rsinglet, should be used in or in relation to decrange of the final products from the place of received. The deficition of toput screwes mould be read as a whole and skewid out the (regmented to order to aws) headglode credit. Once the clearances have loken phase file question of growing signal neurope stage credit does not asise. Pressure tablen is an explicitly sliffly mut <u>unifying from complexing</u> and Court in the cases of Bombey tyre intervetive of 1983 (14) Fi T = $\lambda 002\pi$ 110 JW4-SC-EX-LB. Inffim Divigen Ltd. 1988 (16) FLT 773 NT = X662-110. AS 50-CX and Barada Liestric Acters (7997 (74) 517 15 30 X007 F(1):96-50-0X-LB. One case removal compart of manufactored goods is not premium. In the majoretarian Sector (Contarty, Ac-manufactored goods). the case of Mrs. Efferatech Compute Vid. v. CCF, Shortheat 2097 (b)

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SIN 364 (1.9) = 2007 (103, 405 CPSTAT AHM, <u>It was held that often</u> (<u>i.e. (by)</u> projects pre-crewed from the prace of removal, there will be no coose of subsequent <u>ggs of solving to be monthed as input</u>. The above observatives and views explain the scope of relevant provisions relevally, correctly with a secondarce with the legal provisions.⁵

8. The appreciate order of the hole-limiting Anthoning was speed by the Commissioner (apprecia) principally writtle ground their the Board in its Circular detect expect 23, 2002 and devified the definition of tolate of removal and the Elvee conditions contained therein stood existing incofar as the case of the behavior of the ground if the ground the ground the ground the ground in the case of the behavior of the ground if the ground the ground the ground the case of the behavior of the group of the group of the partnasers door stop; (n) scher bearing the risk of or lass at each group to the group during transit to the certification (0), for group direction of the group of

9 We are alroid that the ajoversal opproach of the Courts below is clearly intenable for the following reasons:

40. In the first instance, it needs to be ket its who had been because discuss they also also be definition of the put service as existen on that date its in the information of the put information of the solution. Relevant particularly the solution is solution is the solution.

"YSINF: The to what stoke in increafactures consigned can take credit on the service tax point on groups transport by read?

CONMENTS: This issue has been examined in great detail by the CLSTAT in the case of Mis Onforch Accords Comeans Lin, vs CCE Luddshan (2007-16) STE 742 TH DJ = 2007 TOOL 429 CHSTAT ACM, In this case, CESTAT has mode the following discretions:-

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"the case sale backborn of memofactured goods is not an input for the manufacturer/consigner. The two clauses in the definition of "imput services" take core to distantsorible input credit by stating that corvice used in relation rethe cleatable from the place of second line service used for oursamil Develop fution up to the place of removal are to be treated as more service. The rirst classe apes not mention tracement service in particular. The second classe resolves constant service areait up to the pase of second. When shere two changes are read (agether, if becomes clear that bransport service credit cannot go beyond transport up to the place or removal. The two classes, the and dealing with general provision can after dealing with a specific item, are as to be read any/overlowly so as to bring coost conflict to deject the laws' scheme i The purpose of interpretation is to find harmony and reconclutation among the various provisions". Similarly, in the case of Miss Withstein Cements Ltd vs CCE Wiskington - 2007-TG:L-429-CESTAT-AbtM, it was held that after the Hugh praduuts are cleared from the place of temperal, there will be an acope of wheepend use of second to be bended as input. The cause assertations and news explain the scope of the relevant prevalues clearly, correctly and in accersance with the logal provisional in conclusion, a monutantizer Licensigner. contract result on the service tax painling category interpret of graduate the place of removal and roc versely that.

8.2 In this connection, the unruse "place of removal needs determined in taking into account the facts of an individual case and the applicable provisions. The phrase phase of recover has not need defined in CLAVAT Credit Rules, in terms of sub-sole (flip) cale 7 of the add soles, if cay words or expressions are used to the CPNVAT Credit Rules, 2004 and one not defined there is that the defined has control taking account of the fine add soles. The receiver the sole in the fine of the sole is a cale of the sole of the physical defined the control taking are used to the CPNVAT Credit Rules, 2004 and one not defined there is that the defined in the fine control taking Acc. 1944 or the fine act, 1994, they sholl have the some meaning for the CLAVAT Credit Rules as assigned to them in those Acts. The curves "place of terminal is defined under section 4 of the Cantrol Date Act, 1944, it states that."

Page No. CoC11

"place of comevo" means

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(i) a factory or any other place or premises of proprietion contramifacture of the excisable goods;

(d) a warehouse of any other place or premises energies the exclusive yearly. Note been periorited to be surred without phyment or dury :

(iii) a deput, premises of a consignment agent in any other place or premises from where the excisible goods are to be sold after their riverance front the featury:

from ellete soch gook ore celdused."

It is, therefore, clear that for a more facturer funsioner, the effortive to emitcreate or the service box paid on the hong-whethor during removal of our cable. you's would depend open the place of removal as per the aethicida. In 638 of a fextury yete sale, sale from a non-duty paid warehouse, or from a duty poid depart ffram where the excisable grows are sold, after their clearance from the factory), the determination of the tolate of reasons? Jues not usee many preblem. However, there may be <u>alcustions where</u> the manufacturer reensiveer <u>ning chine funt. We alle lins taken proce in the marking the prior because in</u> t<u>erms of (he sale contract regreement ()</u> the ownership of goods and the property in the goods remained with the seller of the mask till the dectory of the phony in network prelition for the provinger in this upper scene, 63, the seller bore the risk of loss of o<u>r damage to the goods purine transit</u> to the <u>destilation, and diff the freight charges were as intered part of the price of</u> <u>counts,</u> in such cases, the credit of the service tax paid on the transportation opto areb place of acts wavid he admissible (7-1) can be established he the claimant of such create that the selection the transfer of property is good time testion of the definition as under section 2 of the Central Encise Act, 1914 as also in Leases of the provisions under the Sale of Goods Acr, 1930) accurated at the attid plare."

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17. As one he seen from the reading of the aforeraid pertion of the onemat, the issue was carmined after keeping to minit juageants of (J.T.A.T. In Enformanticle Content (iii) and Mix. (ii)refecti Centert (iii) These judgeents obviously, dealt with anothered Role 20) of Rates. 2004. The three canadiums which were practiced applicating the former of removal as defined matter for the Mot, (here is an concrete up to this stage. Heregoet, the incompany type of the spatial control of the content of the content of the matter is that Content Credit is permissible in respect of incompany applications of the content of the content of the content, the incompany application of the content of the place of the content of the content of the place of the content of the content of the place of the content of the content of the place of the content of the content of the place of the content of the content of the content of the place of the content of the

12. Secondly, if such a circular is made applicable even in respect o<u>) w</u>as, amendment cases, it would be s<u>tatettive of Role 27() of Roles, 2007 and such a</u> <u>situation general by constantanced</u>.

13. <u>The workst of the obvection discussion works be to hold that General Contin</u>ers youds transport areasy service averled for transport of goods from plack of <u>comparis</u> to beyer's premises was not admissible to tag respondent. Accordingly, University of the High Court is service and the Order in Order in Order in Content and the According to the Order in Order in Content and the According to the According

(Emphasis supplied)

8. In view of growellingal position held by the Honible Supreme Court, Central Credit on GTA service availed by the appellant for outward transportation of goods from place of reported to huyer's promites is not admissible wile." 01,04,2000 The period trivalyed in this case is from Auril, 2009 to September, 2011 and hence, Certrat credit of pervice liax pain on GTA for survival. transportation of gapits cannot be allowed.

9. High that the reliance placed spon the judgment of Hon'ble Hab Court of targetet in the case of Wish Gujarat Geurdian Ltd. Succe is not to event and has to be considered to be judgment passed par theories in the light of judgment of the Hon'file Apex Court in the case of Wish Ultratech Centent Ltd. supre. The argument of the Apuellant regarding applicability of Role 10 of the Place of Provisions of Services Folles, 2012, has also be relevance to the present case as the Han'file Supreme Court has delivered clear verdict that Center the of Service Tax paid on putward transportation of the goods is adminished upte the place of removal and not beyond and to this case, the place of comoval is the fraction gate of the appellant.

Set Regardon; periality imposed under [and 1510] of the Kults read with Section (h/O(1)); of the Art, 1 and that there is no case of suppression of fact with intent to evode payment of duty or fractulate dily availated of Convat contriby the appellant as disputed Cenvat credit has been shown by them in their statutory regimes filter who the Department, in the considered view, the laste involved is chis case is of interpretation of the place of removal. I, therefore, do not see any recipient to uphod penalty imposed upon the appellant and hence, penalty imposed is set as delighted. Thely on the judgment of the Healbal Supreme Court in the case of CCE, Jajpan VS, Shree Rejasthan Syntex Ltel reported as 2015(1318) FLI 675 (M) wherein in similar set of facts of the case penalty has been set aside holding as under to

 $^{6}4_{\odot}$. We may state large that the partial involved in homeodus, (595-to 1920) 2001 Show come rative in this in high as noted above, was install on 25. 12,2991. The pulsations of the enriced is guards has to be to some of bottom. 4 общье Сомини Кланке Are, 1944. Для зайд залабом жаз алгенбей на бесрета. 2000 amply manufactor came 150 clust on 1-7-2000. The logal position relating to intensive when the intensiver dehenic which would prevent in pien of the mean whet provides as well as avended provident. Come we live manularization injust this Court in Communication of Courts' Parties, doiper-H & Super Symposium (1991) 1991 (2011) <u>511 T. 375</u> (SUPPRIME CONST. must be show after even and sing the presences of Provide A which provided police to the accordance, that the accessive second its entitled to chaint distantions converte solice was prove the proceedable when was related to insentive widek to setune d by the assessment wave y 25% wave the Anotal B. the case. The Court give held that this pushing interpret offer the anisahust in Sector 4 and spect from 1-1-2006 and in artemy "the transponded (adjust the amount of 75% which was readiled by the assessment and he included. As see the expression meeting, the accession ration has person will not be thatte to pay may easily that, on the solve for amount whyle over retained while the decouple following to 10 50% dark. 2009 $B_{\mu\nu}$ a set this component of sales for which was related by the consistent

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Page 44, 10 of 11

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ajne 1-7-2000 shafi be meladhke marroine ar da tawaaroon wexte mai anns sar shafi ke pati therawa

5. Involve as the question of encended period of homoviou is consorrable the laster game through the order of the Commissioner and are of the cylidite used he has rightly held that the encended period of homovious as got the provise of decision (1994), of the Control United Are. 1944 would be explicable to the growther constances.

6. Classever, ye<u>p are of the contribution that in the case</u> (the data pressure are pressured when pressure and the second respective of a second pressure of a second the pressure of the

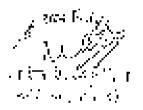
7. In the aforeneous constant onces the pression opposite one allocated by part by remaining the Commissioner's Order in Orgenist provide on Hi-J-2003 Direfter or Isreduces to the period from 1–7 2000 to July 2004 the test presslar 5 seconds. Converse, during shall be no order as to contr."

[Complusie supplies]]

10. In view of above, the paper of an allowing Center Georgi, but allow appeals for setting aside penalty imposed.

10.1 — अधीनकाले जुनास दुले भी बड़े अधीन का निपटांस उपसंकत तरीके से किया जासग है ।

10.1 The apacals filed by the appellant are disposed of in above terms.



अति भारतीय (कुमार सतीय) आबुक्त (अमील्स)

Py R.P.A.D. <u>To,</u> <u>W/s. Madhu Silica Pvt. Ltd.</u> DU III. PlatNo. 52.55 & 56/A + B, 192. 196 & 97, GiDC. Cli tra, ; Bhavnayar.

Copy for information and necessary action to :-

- The Chief Commissioner, GST & Control Evence. Altropadati Zerke, Altropadabed for his kind information.
- The Commissioner, GST & Central Exclar, Bhavnagar.
- (3) The Assistant Commissioner, GST & Control Excise: City Division. 2022 Bhavnager.
- ्रम् 🖉 Guard file.

As the second second