NATION T-TAX	::मायुक्त: (अभीआ)) का कार्याप्रय, केन्द्रीय दश्तु एवं सेवा कर और उत्पन्न शुरुकः: Orb THR COM MISSIO शाम स्वाप्यक्ष Sig Circhtricki, CS स्वारक्ष मध्य,	
MANNER ET	द्वितीय उत्त जी एस ही भवन (21 Moor, CST Bhavan, देश कोई जिंद सेंह, जारकल Course Ring Road.	
	गत कोट - मब्रोम्म - 260 000	
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∓ Эйін / чары йыл / Адарыі / File Xe va/ss/20022017

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25.04.2018

Pass a by Shull 5. A. Vasave, Commissioner, OBST is Control Excise. KomhjGandhidha

आहेल् मान्य कर करने करने करने ते हैं भगवा १९३० १९३० १९३० १९७७ हे साथ पर्य कोई आँगास अग्र भ अर्थक्षि रहती, हिमास १९१९,२९१० के जुसरमा हे भी में। जिस दे एग्रायुक्त, केहिंद क्रम्यु रवे सेवा प्रत के देख एत्यद शुल्क, उत्तरा (मध्येणग), को फोल्क अधियेगत उत्तरह की देव रुप केहीर एत्यह शु अधिरेगत १९४८ की घाटा प्रश्ने अल्केन उने की बई अपेका के जुन्दी में एगरेज परिए करार के प्रदेश अधिर मार्गकों के स्थाने जिसका किया सथा है.

In perturance to Soli CV Notification No. 26(2), 7-33 events proved to 1950 a point. Hund's Order No. (55:20) 7-53 effect 10.11 2017, 6120 F. A. Vosava, Co., measure COS30 A variation fraction Automotivation (), hits factor apprendations appendix as Appellate Automatic Solid Special Index Special Section (), and the Special Index Section (), an

भी अन्तर अनुमन्दर्भ संसन्दर आसुन्दार अन्युनुदारं अहं वक्त प्रायुन्दा, कार्याच उत्पाद शुल्ला सेपालन, प्रजन्मेंद (जाभन र पॉपोल में : भारत्वागरा स्वता उपयोगिकत जनी भून अदिधा ? अंभिनः / देवांत वर्ष्ट्र कर्या की अभिकृत करना किर्माली स्वर्णन विकालने हिंदू भेरत्वीम्ब्ल्यू,/arcma/ basing: Assess

Commissioner van be Rotstely Verstellos, Reist / Jenneger / Gandorstein / Dissenage. 1948aan filosofiel de Rotstelle Van Van Statstellos Accireto of the Appellants & Resonacent :

1. M/s Acui Manufactures, Piet No. 201/B, GIDC, Chitra Induscria) Est. Bhavaagar

দুধা পোঠমানুমেইমানু টা আইমান আৰু আইমি, টিমেইটিমিটিমেইটেকি মিন্টামেইকাৰে কিছিলেইটি হৈ ঘাইমেন্স ও জান একটিম আগ্রহ সাম সময়া দিনি এইফে person aggreered by Calo Coder on Appeal may the an appeal to the appropriate audio, পোনাই পৌঠমেটট প্রস্

- ান। নীৰ ব্যৱন উদ্ধান কৰেও মূলক ওবাৰ চালেং প্ৰথীতীয় কৰাৰ্বাধীনগৰা কৈ গাঁৱী প্ৰথীয়া উদ্ধাৰ উদ্ধান্ত হৈ। গাঁৱীটোই বা চিক্ৰ কি শাৰ বিষয়ে কৰা বাবেঁ তেওঁ '' বা বিশেষ যে, 1995 কা শাৰ ৪৫ কি প্ৰট মিৰ্কান্টিলৈ নগড় কী নাৰ প্ৰকৃতি হৈ। প্ৰথম মাৰ্কাৰ্য্য সময়েল ও উপ্ৰকৃতি বিষয়ে উপ্তৰ্ভাৱন কাম্বান্তন কেন্দ্ৰৰ কৰা হৈছে সেই মূল কৰল উপ্তান কি কাৰ্বাৰ্তন কিম্বান্ত হয়। উপ্তৰ্জন কৰা মাৰ্কাৰ্য্যক কৰা মাৰ্কাৰ্য কৰা মাৰ্কাৰ্য হৈছে সেই জন্ম মাৰ্কাৰ্য কৰা কৰা কি কাৰ্বাৰ্তন কাৰ্য্যক কৰা মাৰ্কাৰ্য সময়েল মাৰ্কাৰ্য কৰা মাৰ্কাৰ্যক কৰা মাৰ্কাৰ সময় বিষয়ে জন্ম কৰা মাৰ্কাৰ সময় হয়। মাৰ্কাৰ্য কৰা মাৰ্কাৰ্য কৰা মাৰ্কাৰ্য কৰা মাৰ্কাৰ কৰা মাৰ্কাৰ্য কৰা মাৰ্কাৰ কৰা বিষয়েল কৰা মাৰ্কাৰ্য কৰা মাৰ্কাৰ কৰা মাৰ্কাৰ কৰা মাৰ্কাৰ কৰা মাৰ্কাৰ কৰা মাৰ্কাৰ কৰা
- ји तमंग्रहण संस्थानिम से जावसिंग, जमें मामते तीमा एकक, केन्द्रीम इत्यादक अस्थि एक एक मयाकर आहे. . मुखादिनमणे की जिसस केंद्र उन्हार के में ?, तम केतरियम नद्र किल्वों, को की किली गोहिए ? . Lite operation sector of Configure Reference General For Source and Tribun die Wood Biold No. . R.M. Charri, Non Dall in all nations of class to classification and volucition
- (6) अध्यत्मन गरिताइस्ट (1)) में बतार यह अर्थालों के अव्यक्त क्षेत्र सभी अर्थाओं योजा अन्तर केंद्री । उत्पाद जुनक बोट कर मधीआंग म्यायां विकरण (तिराह) वरे गरितम राजीच पाकिस्ता, राष्ट्री विवेच स्तुरु की अवर्थ अर्थ तात द्वार द्वार क्षेत्रकार को जो लोगी गाँदे हो।

To the West reaconal boach to Customs, Deters & Smorn Restangellate Frilders' (CRSTAT) 20 Figure Blactman Ghewan, Azamas Admostal ad-530016 in Base at copeals office that memories for parasition stored

अगोलान सरावधिकत्य के समस्य आगील करतता के दिर के लिए करतार सत्य (तमक) में मतारकी, 2000 भ विरेता शेल (में का निधारित कि प्रिंग सर्च प्रेयंच १८०० को निर्ण प्रतिये में उन्हें नियत ताल आहिए।) इसमें से एम से करने एन प्रसि के प्राण, जहां अन्याद अन्य की तथा ज्याल की साँग (मेर स्वयन्त्र वाद साहिए)। इसमें से ताल का उससे जगा, 5 अगव जगए जा 10 सोन क्या तथा प्रक्षा देने आग जाए। से आगेली के साम स्वयन्त्र 1.0000- स्वय, 5,8800- स्वयं तार का निवास क्या के विद्यारित जना शुरुक के पति सार्यन को निवास (मेर 10) सारक का अग्राजन, वाद दिन इसे जिस का वाद्रों के साहन के साहन के सहरक के पति सार्यन को निवास का स्वयन्त्र के साहन का अग्राजन, वाद दिन इसे जिस का वाद्रों के साहन के सहरक के पति सार्यन का साहन के सिन्दी के साम का स्वयन्त ш ते शैरिक के देव के देव कवल जाने एक्सोनेल पैक शाल, देवाल केंग जल्मा कुले वा संघ^{र्}दत हुमन का **स्वारक**, कर केंग्रेडर साम्रा में सामे आहे.२ जना प्रतानिक तैर्पालीयुं पुराय फेल्क पानी, क्षेत्र, सियत हैं । स्थलनी आहेगे (१८ अभि) अत्रिय जातेत्वनस्य के साथ १००४ था। विश्वीस्त शुक्ल जमा करको होता ।

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13. Allow when the consistence of the state of the string provided the state to the state of the constraint of the state of the state

The appeal under sub-section (I) of Section Since Lie France A., 1004, which appeals in cost takes provide an quadpointate in some stick as prescribed under 5 do 1). The Service Tax Rokes, Rokes and shall be compresented to a corp of the cross appealed because provide which shall be callefted in government on a corp of the cross appealed because provide the shall be callefted in government of the share particle of q gives collection of the share the amount of solution in the result of the share particle of q is a fact to a rest, Robindly in these the amount of service fact is interval to the share of q facts is the to a rest, Robindly interval the amount of service fact is interval to the share of q facts is the to a rest, Robindly interval the amount of service fact is interval to the service that fact as as an interval of the service fact is interval to the fact of q parts is being in our than the fact the amount of service fact is interval to the fact of the bound to be service to the fact the service of the Assist and Robinshire the fact of the fact of the bound to be service to the fact the bound of process in the fact of process the fact the bound of process is the bound process the fact of the bound process the bound of the bound process the bound of the bound process the bound of the bound process the bound of the bound process of bound of the bound process of bound of the bound process of bound of the bound of the bou

·... वितन अभिनियम, 1997 की तरा ७८ की उन तराओं (2) राग (26) के अक्षर्यन दले की पर्य ज़्यांचर ' ने न काओ - 1994, के 'सेंग 1-929 के *1926, के तुन्द्र किस्टों, करत के नर के ने*श आ **सभाज एवं उन्हें**ने साथ आरद्भगाः भन्नदेश्यि द्यान्त भूतम् अदिया अभूमते (अपितः), तेनद्वीय उत्पाद शुरुष त्यापा भारित आदेश की प्रतिश जन्मतेन कर (उत्पत्र श्री एक दीने अभागेन होन्छे mbay) की उठ एका द्वारा कक्षणक आर्युक प्रदेशक उत्पर्वतः, के दीन क्रमान सुरुवे रोडकर, को अमेलिंग वये अधिकरेत की आवेचन तो जनन का निर्देश इसे ताल अटेर्श के प्राई भी संभ ने मुख्यन करने हुआ।

The mapped matched description Q and (20) of the sectors 26 for the tensor det 1999, shall be then apped matched by a spectric during the Q of the Q(2A) of the Sectors for Edge, 180 - 40and the second solution of a maps of matched Commission of Course escape of Commissioner. Coursel Course (Appendix) for a maps of matched Coursel Course (Appendix) for a color passed to the Course (Appendix) for a the Sector shall be a contained on p and the Q of A, and p as the formula of p and p

- liit तीम शुरुष, जेन्द्रीय उत्पाद शुरुंक एव सेवाक्य आर्थलिंग शायिकच्य (गेवरेंग) ये जी जिस्से में कार्याय े मान के के मांधिति में 1997 तो थाएं 35.02 के ओरायत को की जिल्होंचे अभिनेत्रका, 1994 की आत 83 के उत्तरीत लेकपूर को भा लागू देन गई है, इस आदेश के प्राप्त स्पीक्षीभ शाधिक के ते ल्यील करता समय जवान सल्कर्धत कर के दे पतिशत (1984) जब के एक ल्यूके दियादित है, ये जुसीका, तम केवल जुझाना दिल्होंदेत है की पूर्ण का कि मजाय, तथा, कि इस भाग के प्राप्तन तामा कि जान वानी अपेशान देव जाते दन क्लेट जगर ते आवंदन साहे.
 - केन्द्रीय उत्पत्तः सन्क एव जनावर का रहाये। 111 विज्ञानए भूजरा ही जिल्हा धालिल है। धारा 11 देवने, दिवने, विज्ञान
 - i:
 - संगवत जमा भी ती गई राजा, प्रशि 1221
 - फनगट जम्म (मेनमावल) के (मेनम 1) के अल्पील दश प्रत्य i_lir
 - र र ने कहा कि इस भारत साथ साथ में सिख्यों । (संच 7) दि दियल २०१४ में (अर्थन) के पूर्व कि क्रा उपनियं भाषित ही के कर का जिल स्थीन स्थलन आओं अर्थ आगान की लाग नहीं होगे?

where $q_{1} = q_{2} = q_{3} = q_{3}$ (see where U and U μημη Z_{1}^{2} **συν ηξηξ** Z_{1}^{2}) for an around to be from before the U. GPAC under Section 201 of the Control Kasizo Act. 10.14 which is about sub-modificable to Service Test in slot further Section 35 of the inverse Act. 1986 an appeal against this order shall be more the firth trained programment of 10% of the cur-demanded where duty or duty chief secally are he dispute, where a more region where is in dispute, received the same a cut model while payeline which he subject in a return of 12% for U and Q and Q are a substantial to more the first trained by where q are enough Q to Q and Q.

Under Control Exclorettani Service Text "Dury Down of sl" site" includes [1]
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असे जात के भेगती बावलाबा के सामान के राष्ट्रा बावलाक किसी प्रत्य को किया। कारआते से भेज तरह के भारत के के होगा का बिभी भारत जारका थे। में किस किसी तक प्रतान कहा में दूसरे केंद्र यहां परिल्लान के होगा, का बिभी दूसरा पूर्व के सीराम्य के राज के जराव्य कर के दिस्ता, दिसी स्वयंत्रकों का किसी सब्दर भुप्र के जात के जुनकाल : 5 ት - ብሻ ትር

In other or how one of grants, where the easy resonance in the still free. In factor, to prove the cost of a start barrely of the provident of the start barrely of the start bar

ो सन के आदर दिसा सब्दू या राज को प्रियोग कर रह साल के विक्रियोग में आपना नवले आतः कर से प्रे बंधे इंडरकेंद्र क्याद कुला के हुआ (प्रेसेट) के जातों थे, को आजा के उठ्य किसी साद थे। ये की विभास की स्वर्थ है। liit

Ly code of web we wildow of excise on goods exponent to any consulty or minimal subscript \hat{d}_{i} , if an i is isolate material associated constraint at the pool of the good of the order of exponent in the second property of constraints of the pool of the constraints of the second point of the secon

- ्रा) । यदि अभाव रहक के अंगलन कि अंगल अंगल के गए। नेपक जा भुवन को नजा कियेत किये गया है ज Galence अंग्रेजियंत अम्बियाओं स्टाइंटर कोटी केटी के स्टाइंटर से New Web (Strike), क्ले आप postment of and
- (a) HIGTER ATTENDED TO A CONTRACT OF A CO
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- भारतेशना अभेद जिल्लाभा विश्वविभिन्ने विद्योरित शुल्मा की अवस्था का सभी, वहिन विहार अग्रेस रख्य एक त्रास अग्रे रुग आसे मन हो ही रुगरे 1905 जो सरहाता विद्या जाए और चौट सल्प्रता इनके एन लोग कार्य से उद्याह हो मां ताने 1000 गुला प्राप्त न किया जाए । "The second approximent shall be occupied different as of San 2000 where die of some merited on approximent shall be occupied different be another ment-some merit Ray solar for an 12. Rupiva С. к. са.
- 1100
- (1) ANNUME CONTRACT FROM INTEGER, 2497, 71 अनुसूर्य 517 अनुसार सुरु आदेश एवं उध्यात आहर दी. अंग्रे में निष्णित 5.50 हैंपरे का त्यार कर शतक शिवित को इंग्रा साहिता? Case copy of graphentical or (0.1.6) कई fact case must be must be used in the reliation of the reliation in the limit of a lifetime case. An electronic lifet 5 will be preserved induct for efficient of the stress the Court Lee Act 1953, an emerged.
- गों। 1 रहन के हैं। 15 मन्द्र करने एने ग्रावलन अमेलिन उत्तरत्वित्तरण (कार्य क्रिपि) सेरकावर्त्य (1992 में डॉफि) इसे इन्हें। संगलिक आगते के अभिग्रेंडल करने यहां जिनमां की जीव में के जानवित कि आजते हैं। 7 इसिकार्य के 19 स्टब्स मध्य देवे कि सिंह स्टब्स् के स्टब्स् के स्टब्स कर सर्व के प्रतित्व कि आजते हैं। 7 संगलक, स्टिक्स मध्य देवे के सिंह स्टब्स के स्टब्स् के स्टब्स में के साम स्टब्स के स्टब्स के स्टब्स के स्टब्स् सरग्रेकार, सिंहर्य मध्य देवे के स्टब्स के इस्टोर्ट के स्टब्स (1995) के स्टब्स के स्टब्स के स्टब्स के स्टब्स् क 11
- 16) দেশৰ দেশটোৰ আৰম্ভি নি টেনিয়া শ্ৰিমান সময় না সমাহন আগবা, টেস্ট্ৰা টোন নাইনেজা বজানে। ৫০ বিছ মাইকাৰ্যা টিলা মিন বিকাশনৰ অভয় নামৰ দুল্লাৰ কি ইকা বাব টি টা টু For the relation, a detailed and filling provisions relative to filing of constal, to the bigger socially on detailed and filling provisions relative to filing of constal, to the bigger

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V248/8VR/2017

:: ORDER-IN-APPEAL: :

Wis Atel Materializers. Flot No. 291/3, OIDC Indestrial Estata, ChtX. Bhavnagar (Lereinalter referred to as the 'spoeliant') have find this appeal against C O No. 5/1V-FXGUS-000-1C-42 TO 02-2016 17 dated 03.01.2017 of the John Commissioner of Central Excise. Bhavnaga: thereinalter referred to as 'lower adjudicating authomy (

2 Do prictly states tack of the case are that the experient was subjects to various processings and a number of orders have been passed. Dv an Order in Original SHV EXQUS COSICG 42 TO 82-2018-11 dates, 08x01.2017 passed by the rest adjudicating putholity, an empone of duly to the tune of Rs.1.75,60,727/bas been confirmed along with interest and imposed Fendity of Rs.1.75,60,727/sid Rs.15,000/ upon appellant.

7. Tota 21 SONs have been needed with the unpugned Order by the activitiesting authority. Being aggressed by the impugned order the opperantified the present capital on the ground that the Joint Commissioner has ensuling continuing the twenty one Show Cause Notices for the period May-2009 to Principal 2012, thereby changing classification of the product "Zymenold Plus" from a Herbitzer under Tariff Heaving 31010099 as claimed by the Department and consequent to this change in classification continued terrain alongwith interest and imposed penalty upon them.

4. The facts of the case are that busing the pourse of audit, it was observed that apart from other products, the appole of back stated menutatorung and cleaning new iterosivid. "Zynogodi Flux Granules", falling under the category of Plant Growth Regulater devoted by Chapter Heading No. 58 of the Centra Pade/ Tariff Act. 1965 and clearating General excise outy. However, the epidelate has Vassified the earne under Chapter Sab Heading 31010820 which effected the in vassified the earne under Chapter Sab Heading 31010820 which effected the intwice of dety. Since the process and end use were found amoet similar to under other anabusts its. Plant Growth Regulator menutectated by the appellant, a earnesh of the said product its. Zynogole Plus Granules" was drawn on 25,02,2010 in presence of the authorized representative of the appellant and the same was sent to the Ghemidal Examinar, Customs House, Kappel end approximation and granulating process and details of inputs, for "no approach details of antipolation of the appellant and the same was sent to the Ghemidal Examinar, Customs House, Kappel end approach details of inputs, for "no approach details of approach and approach details of inputs, for "no approach details of approach and approach details of inputs, for "no approach details of approach appendiction.

5. It was also not continen the ER Thelum that the sope/ant has started to mention that product "ZyraegoM Plus Granules" as "An mation Vegetable Pertuzors whether or not mixed together or chemically dealed; Fertizers produced by the mixing or paemical to storent of animation vegetable produces.

م. مرجع NAME & STATE

c) Der Central Excise Twiff sub-heating No. 01010019 (essessing a. NE rate of outy, in the monthly return of ER-1 (a) the root/triof May-2010 and onwards.

1. On the basis of test result conveyed by the Obernical Hearmer, Custon's House Kandla, whe letter Hind KD2 M2/CentEx./2009-10 dates 17 03/2010, two Show Cause Notices were isoted to the appellant, proprising to classify 1/Qurachi Flux Granules' manufactured by them under Chapter Sub-Leading No. 2009/940, animating Centre, Excise duty instead of Sub-Leading No. 2001;005, as claimed by the appellant. The adjust cetting autocally adjudicated the said SCNs and continuent the centage of Centre Excise duty and the Section 11A of the Centre Excise Act, 1944, a ongoith interest and smatching autocally active Section 11A of the Centre Excise Act, 1944, a ongoith interest and smatching autoching allocated Section 11A of the Centre Excise Act, 1944, a ongoith interest and smatching autoching allocating autoching allocating autoching allocating autoching and the Section 11A of the Centre Excise Act, 1944, a ongoith interest and smatching autoching allocating allocating autoching allocating autoching allocation allocating autoching allocating allocating autoching allocating autoching allocating autoching allocating allocating allocating allocating allocating allocating allocati

The impligned Order has identifyuation the routh mundlet the silent

First Round of Jitigiation:

8. Tot 1,51 two 6CMs () No. V(15-000/10-11 dated 30.04.2010 and (I) No.V(15-23/Demand Ale/2010-11 cated 15.02.2011 were adjudicated by the acjudicating adjuanty (Assistant Commissioner) Moe. O(O. No. Or to 02/04-xcite/2011-12 cated 11/12.07.2011 confirming the domand alongwish interestiand Penallilea and the same was toholo by the office Vide O(A Ko, 75 to 70.72011)BVRyCommyAVR0D(Raj) dated 26.01.2011. Thereafter, I on/ale 1 0.6507AT begi represented the case to the Griginal adjust cating authority without eccreasing any opinion on the merits of the case vide O(16) No. A/1300-19010/278/AHD9D12, and 6/1700 1757/WZ5/2012 cated 22.00.2012 with a direction to provide copy of test restrict/9460 01.07.2011 (second by the Start) of Pagminor 10 isothy House, Kandia, which was reflect above by the adjudicating authority buildition packided to the appellant.

Second Round of Rigistion:

0 Subsequently, SGN No. W15 01/0/2011-12 called 24.02.2011 and W15-56/EV2011-12 dated 26.12 2011 were adjudicated vide Orden in Organal No. 551 M 302/3/11 12 dated 20.32 2012 confirming the demand. Heavy aggreved the appellant oreferred appeal before this office and this office had recorded UV-case back to the original adjudicating pullowisy vide. O/A. No. 146-147/2012 (RVR)/SKS/Contrat(4)Abd cated 25 12.2012.

Tidol Round et litigiztion:

10. Subsequently, the Assistant Commissioner: Central Forball City Unisian Unaveraged setting instead remanded cases (KISONs) elements of the SGNs (lotal S SGNs) for the period Septemant-2031 to Cotopar 2012 vide OIO No. Culto.

4

15/D4Excise/2013-14 dated 14.08.2013 and one more OIC No. 21/02Hxcso/13-14 dated 01.11.2013. Both lifese OICs were onellarged by the appoint option with office, and tots office vite OIA tot. RVR-EXCLAF-000-APP 136-173-12-14 cales 01.01.2014 remanded life matter to like Original Acjudicating authority after periodic appoint to cross exempte life Chemical Exemption. The cappoint profetred appeal before the CESTAT and CESTAT had also also been anced the matter to life Original Acjudicating authority of the traiter to the CESTAT and CESTAT had also also been anced the matter to the CESTAT and CESTAT had also also been anced the matter to the Chemical Exemption of the Chemical Examination of the Chemical Examination.

Fourth Round of littigistion:

11. Thus, tais is routh round of Digition, wherein the lower summing upon Commissioner, Central Excise & Service Tax, Chownages) passed CIO No. DIV EXCUS 000 JC 42 to 02-2011-17, dated D6101 2017, wherein dedoed total 21 SCNs covering period from March 2010 to come/2010.

 Being apprieved by the impognan others, the appallant preferred the present appeals on the grounds that

- ÷) the insugnot order is eaching an as it has seen possed beyond the serve of Sie liventy and (21) Show Gallon Notices inasmuch as the only bosis for change in classification in all the Show Cause Natices is the namen of the Chemical Examiner as contained in the two test records dated 17.03.2010. and 01/07/2011 Utet the proceed Zwaregold Plas areas not morth described on as a Fertilizer alongwith a plant statement not supported by any canonice that the product Zynlegold, Plus does not contain NUP or R; the mangned order has continued change in classification by retying on the dotata as contained in the trademark registration contribute and the details. as allogoaly deplayed on the website of the Godro! Agrover Limbed to come a a conclusion lital the protect Zymegold (1998) a not a Feräizer, the motigraed order has been passed beyond the scope of the Show Casas. Notices as it relies on Rule 3C of the interpretation. Rules to hold that the amdure Asmegoló Plue la classifíacle as Plant Growth Regulator under Talilf. Heading 39066340 and does not ment classification as a factilizar under Tarlit Peacing 31010099 when the Show Cause Notice coincurater and my on the interpretation Rules for enonge in dessification; the impegned order has been passed contrary to the settled, avoids faid cover by the Hop Ma-Subject e Court in the case of Loya Engineering Limited reported in 201 CuT. 513, wherein it has been held that an order passed beyond the scope of the Show Casee Noti >> la tatt
- (i) the imprised Order is bet as the adjudication activity while adjudicating the Show Grase Notice lise not active in his capacity as a Quest United synthetry as much as instead of exempting the valuety of the information

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rolied upon in the notice, he has partied out his own investigation and rolice on information which he helps is relevant to people the plassification issue when the information be rolice on help not been relied open in the Show Cause. Notices: that the adjudicating authority can not unerpower the allogations in allo in the Show Cause Notice: this displaying Authority has some to a conclusion that the Department has displaying an information / data on the role of conclusion that the Department has displaying by the onus past on the role of conclusion that the Department has displaying the onus past on the role of conclusion that the Department has displaying the onus past of the role of cancillation called for and roseenched information / data which is not call of the Show Cause Notice via details in the tracemark application and no not website of Georej Agrovit Limited, that the Caust which is not call of the Show Cause for all integritially while decompt a dispute that the implying Order is as in the the relation of the solution in the ground alone, consequently, classification as a fertification contract? Heading 310(10026) as do not by the Appellant be upholic

- (ii) The impligance Order is bad as if raids on letter dated November 24, 2015 issued by Smith Laminal S. Dhakele of SSA, Ghazlackit, Wherein after retarding to the letter issued by the JCC+. Pheynager acking for nonuments related to in the cross examination of D_1, C, P_2 Signing, the latter respective State Shakato endoses the required Hersburg for standard test methods of N,P.K and further goes on talistate that even though test report was for tasted, no reply was received from the in charge Customs Catorstony Kundia, that the latter was issued by Smith Familia, 5. Diskale and not by Dr. C.P. Stornia, the Chemical Examinent who had issued the two test reports (March 17,2010 and July 1, 2011) and who to his cross examination stated or calculatine will provide details of the methods appoint minimizingthe samples and copy of the report satisf by the cremet, that the subject two leaf reports were the only pasis for pirange in classification were issued by Dr. G.P. Shama and therefore, only Dr. G.P. Shama could state that was, mellious were used in the year 2010 and 2011 for festing the samples or the aradust 2ymegold Pills: that he other person could state which (nethods were class for forcing the samples in the year 2010/21; that as there has been no information provided by Dr. C.P.Shaaria about the motheds used for testing the samples and as Dr. G.P. Shamia Las also lated to movide dopy of the report issued by the chemist, the validity of the test repairs as the basis for change in classification have to the examined to light of these lack.
- (b) The margned order is ead as it uphotes the change in classification posed on the two test reports, which is nothing but the opinion of the Changiasi Examinent on classification of the product Zymogold. Plus upper Ceptral Excise ignoring the section are that Change's each opine on classification but has to merely provide the technical specification (in the top core function) of tentific classification to have all Change's result and relied on (i).

A.

Arma Ay modie Val BOP (Supreme Couct reported to 100000 F (0.5, (1) Two Oby Organics Pvt. Ltd. Vs. CCF (Tribunal) reported in 146 ELT 569, (ii) Tritan Synthetics Fibres Pvt. Ltd. Vs. CCE (Tribunal) reported in 106 ELT 557, (v) Stadfast Paper Mits Vs. CCE (Tribunal) reported in 1960 ELT 744, (v) United Industries V. CCE (Tribunal) reported in 70 ELT 141, (v) 1 Date (i) Pvt. Fd. V. CCE (Tribunal) reported in 128 ELT 513, (M) Darmet Chan itals Pvt. Ltd. V. CCE (Tribunal) reported in 128 ELT 513, (M) Darmet Chan itals Pvt. Ltd. V. CCE (Tribunal) reported in 128 ELT 513, (M) Darmet Chan itals Pvt. Ltd. V. CCE (Tribunal) reported in 128 ELT 513, (M) Darmet Chan itals Pvt. Ltd. V. CCE (Tribunal) reported in 128 ELT 711. The oppellant further submitted like, during the course of cross examination also the Chemical Examiner on earth has specifically stated that the feature was cone with a view in determine the paper state for product that active rise is of the Gross Examination may kinety be referred in this regard.

The impugned order is that in semicidulas it fails to appreciate that the 60 Repartment has not discharged the onus cast on the changing the classification from Hart(Izer under Fariff fleading \$1010026 to Flam Crowth Regulator Tadif Heading 3108934; that if the Department does not discharge the onus deat on it for charge in obserfaction, the dessilibation as delined by the assessed has to to extended and relied on () Hindustral Feredo Ltd. V. CDH (8-C)) reported in 99 ELT 16, (1) Colgato, Pathicitye V. JOI (Ponday H.C.) reported in 1980 ELT 258, (ii) Nevectaum Rather V. Supple Of CLEX. (Kritele H.C.) reported in 1983 RI., 11.85 and (V) Bernovy. Yords and Allied Products V. BG: (Rombay H.C.) recorded in 21 EET (C... They for their submitted that the two dy one Show Cause Notices do not give any cogent reasons for the processed energy in classification but merely. reflex on the two test reports dated 17.00.20(0 and 01.07 2011) that the test report datase 17-08-2010 does not previde any technical data to arrived at onenalysis of the sample out it merely slates that the sample has been exemined in light of the Contral Excise Ter/T Ad., 1985, HSN, Laboratory, feelogs one testings and fullier slates that the sample does not locitate. propercies required for classification under Carri Haadho 3491(938-1) a) [Fe report of 00.07.2011 I monthly states that the product does not contributionly of 6% three tiss of e-tilized elements which is the mandatory requirement to be covered under the actinities of Fertilizen that both the test repeak could specify the values of test which has been corried out on the sample: that boil: the test reports do not specify the methods erigible to ricetying out the rest; that the Gross Examination of the Chemical Examiner conducted on $^{+}$ 33,07,2014 elearly brings on moon, the fact mat the test reports were issued. based on report which was initially issued by the openiations after giggigg on between the Chemical Exeminer and the cluea ist, the test reports. were usual, however, there is no report of the characterization that the Openical Examiner Dr. G.P. Sharma Law not previded any détails of the

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met rade used for lesting inspire at storing on reth that he will provide the same

- (vi) The includence of other tails to appreciate that their product "Zymogon: Pice" is a tertilizer.
- (vi) The imprignet onter distands repair of independent lease every on factually, reconcil basis that test reports are not chattenged.
- (vii) the impligned uper is bad as it has continued the Show Cause Notices which i ave been issued morely relying on the applications without any independent application of mine.
- (iv) The motigned order is bac as it does not deal will, all the content ops and (369, Sive place by the Appellant in support of the submission that classification as datmentify the appellant is correct.
- (a) The impligned order is bad as it has been passed contrary to the selling law that often facts have been disclosed, suppression with interition to evade only cannot be altriputed as trail in the case laws : (i) Astand Nish kava Vs. CCE (S.C.) reported to 166 ELT 149 (ii) P.R. Rolling Mills Va. CCE (S.C.) reported to 246 FLT 232 as contimied by the Supreme Crust reported in 266 ELT A62, (ii) Marcti Udypy Etd. Vs. CCE (Italiana) reported in 246 FLT 25. Misch Organizations (Interin) reported in 260 ELT A62, (ii) Marcti Udypy Etd. Vs. CCE (Italiana) reported in 147 ELT 199, (iv) CCE Vs. Misch Organizations (Interin) reported in 223 ELT 244.
- (4) The Appelant further schnite itea, as no duty is pavable for the reasone stated above, penaby is not imposable; that there is no suppression or texts with intention to evade duty as explained sorve, penaity is not imposable, inder Section 11AC of the Acc and the same be set as de; that the dispute between the Appeliant and for Department penains to classification if is observed, that it is purely en interpretation, save, and in mose facts, suppression of facts with intention to evade duty particulate and the same be set as de; that the suppression of facts with interpretation, save, and in mose facts, suppression of facts with interpretation arevade duty participation of the Act be set oside on this ground; that penalty is not uppeable under Section 11AC of the Hacks of Rule 27 of the Hacks Rule herce be set as de.

13. Subsequently, in pursuance of Dearc's No/Yea/on No.26/2017-01-m (N1), dated 17.10.2017 (gad with Bosinia Onter No.05/2017 ST dated 16.11.7017, itos ps/pht.approt.nes.been.b/keir.on [and for accomp Order In Appeal.

14 Persons Hearing in the maller was granted and hold on 20.02.2010. Solivogeshi S. Patki, Artvocate appeared on behavior the spectant reiterated the submission augusty made in the case. Be systematically explained in a position leganting providement of the appealants product and submitted coupliation of case laws to approximate pass, which has been taken on explained.

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V2/45/60/R02017

10. I find that in cost of instant appeal, the impugned order was received by Ure appeal and that in cost of instant appeal, the impugned order was received by Ure appeal and the standard of appeal is 07.03.2017. Hence, the appeal has been block which the standard once period and there is no delay in filing the appeal. Since the appealant has deposited an amount of Re. 18 10.3054-up in GWs of the order demanded and submitted copy of the challens alongwith the spreat, accordingly the condition of gre-depositialso stand fulfilled.

16. If have catefully gone through the records blaced before the, appeal comparatum and the various submission meter craity as well as in writing during the potential mealing. I proceed to beade the appeals on merils. The issue to be coolded, is whother the respondent department is correct in charge of (lassification of the product Zymegnin Hos Granties, from card Hoseing Stifteds) as claimed by the appealant to 35068840 or otherwise.

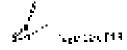
17. On going through the in pageed orders. I find that lever authority has doeslifed "Zynogold etus" under Chapter Sub-Peacing No. SS089840 instead of Chapter Sub-Heading No. S10(0099) wightely classified by the epactant — or changing description, the layer anthomy has milled upon two test reports dated 17.00.2010 and 01 07.2011. Saved by the Chemical Evaminer Custom House Laboratory. Keridia: I find that at the 24 SCNs depicted by the impugned order wore based on the apava mentioned two Test Reports.

16. COT 1557 THO CREE was detected at the trad of audit and setsoquently Lased on the Audit Report department drawn samples and got it tested at Central Revenue Control Centratory at Kandla. I find that at the 21 Show Gauss Notices, heavily rely on the above mentioned bath fast reports.

19. Find that this is fourth round of 'rightion in the Instant case. Her'ble $CES^2 | 47$ path fiel remainded the case for non-supply of test reports are another time for not growiding cross examination of the Chemical Exercision and the state of had also remainded the case beak on the same ground.

20. Indicate the appollant has objected for the rost talor the test reports and requested for Cross Examination of the then Chemical Exampler and the same was granied by the lower adjudicating subscript before defining the implication order. The main contention of the spacifiant was (1) the Chemical Example can not to be described for the sample in his feet report (2) the method by which the samples were tested by the Laboratory is not mentioned in the lest reports and the Chemical Example failed to explain the method curing the Cross Example in a discussion and the sample in the method curing the Cross Example in and allowards.

24. I find that the contention of the appellant is content that the Chemical Examiner can not opine regenting classification of the grouts but has to give



V2-46-6VR-0017

technical petelis about the samples and bas refed on various decisions in this regard. It also find that there work no entrus made either by appellen, or by the respondent deperiment for pelesting of renarable of duplicate samples maken at the material table of succeptionally.

22. I find that the lower authority has confirmed the decision based on (1) Test.
 Papertal pates: 17.03.2010 and 01.07.2011 (ii) Description of the process.
 "Zyntagele Plus" on the weasite of the principal manufacture Georef Agrovat, and (Li)General Rules for Interpretation of Central Exclass Tatliff Ac., 1995 .

20. I find that the plea of the Appolant that the lower sufficiely has vaveled. Physical the Show Cause Nuclea is not correct as the allogations towned in the Show Gause Nation and continues in the Impugned order are same i.e. Change of (1986 Justic), of the product "Zymeyold Pres" from Chapter Sub Has the No. \$131606945 Chapter St& Heating No. 39087349, thus the reliance placed by the speciality on various case laws are misleading and not proper as no new allogations are made or continued by the lower substity equilibrity equilate appellant in the sale implyined orders. If find the plea of the appel ant dist but lower authority has rubl functioned as Guasi Judicial Authority is also not contact. [Intro] that the Show Cause Methodos saturation change of Tariff of the product "Zynegold Pres" from Chapter Sub Heading No. 210:0069 as originally classified by the appoint for Chapter due Leading No. 2808/040 — and that the test results we e-challenged. by the appellant on led mical grounds and on the basis of decisions of various courts in this regard. If fund that the appearant is registered assesses with the Central exclass department since long time and is having fall knowthing on Central Excise Tar " classification as they were streamly menufacturing. Plant Graven Seguerat prior to the production of the product in question i.e. "Zymopakt Puls" — I ind list die product. Zymegold Plus' was registered i rate Mark of M&. Optiej, Agroves the , Munthau , thus, the separate was beying \det_X on behalf of the principal manufacturians had chosen not to pay doty for their product "Atmosphi-Pius" and passified the same under Tariff Heading 31/070089. [] (Urbier find Ura) the appellant was aware that his Principe! Manufacturer M/s. Godrej Agrovet Ltd. weal malkeling and selling the product "Zwnegold Plus" under Plant Gravin Regulators and Bio Stimulants up other than Hartilizer as evident from their website though instead of classifying the product under Plant Graven Regulator 1000 Tellif Heading No. 38036340 as alleged by variant Show Cause Knikks by the respondent department, the appoint protonoid to provely need dest the product under Tariff Hooding 21030068 at Nil rate of duty and thes evened payment of Central Exclose duby. I also find that the result of (Aal, Hoyds issued by the Chemical Examiner Cated 17-08-2010 and 01.07.2011, Truce Mark Registration Contribute to respect of the product "Zynegold Plus" and description. of the provinci on the website of M/s. Godraj Agrovati Monare all resulting to the and and the serve fact that the proceed Wythegold Dus' is Plant Crowith

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Regulator, bende, the plea of the appellent purely on technical ground is for from. for fact, which is well shown to the appellant also.

24. From the shove decreasion, I notif that the appellant was well aware about the condet classification of the their product. Zyanequic Placi but Intentionally, preferred to dear the same at NII rate of duty end on boing pointed our by the respondent department, phosen to challenge the Show Gause Notices on 5 Notices sections (grounds, it also find that the lower adjuctcating authority has vertical and laken on record various aspects viz. Trado Mark Registration Certificate and information on Wahste of M/s. Godin, Agrevet Hell, Mumhal in addition to the clear Reports paled 17.03.2010 and 01.07.2011 issued by the Chemical Evaniner, Central Revenue Control Laboratory, Kandla, through not mentioned in the Show Cause Nations Ectors around at the condusion. I further held that the efforts made by the lower subbrily to arrive at conclusion and cho?orged by the appellant wood logical and correct and it cannot be termed as beyond the succes of the Show Genat Net cest of 'researched' or "revestigation" by the lower according as the said information was aither provided by the appellant then selves (Trade-Mane Rogistration Certificate) or was available in the public normalit (Wrears of Mis. Gound Agrovat Hr. ("Honde the pleano" the appellant is heither conrect nonexceptions. I hold that the appetical had intertianally exact of the product, "Zyniogold Plus" under Tartt Heating 31013009 and Geared a. Nichale of curv footgo reving (all NV)-viedge of the conept dessifination of paid product. Associately I had that Contral Emission duty stangwith interest continued and panaly into sed by the lower subscript s proper-

25. In view of the above, uphold the impugned enters are reject the appeal, for by the experient.

35 In the appendited by the appellant stands disposed off in allowe terms.

(P, A, Vashue) (P, A, Vashue) Commasionet (Appeals)/ Commasionet Commasionet Commasionet Commasionet Commasionet Constructionet Kuban (Centchelham)

Dete: 12.04.2038.

- No V.9/48/GVR/2017

Ry Read. Post A.D. / Speed Post

is, NOV Anti Manufacturere Pro No. 2010B GUOC Industrial Estate, Oblita, Diravnegat,

FARE 31 CT Lt.

V244/EVR/2017

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<u>Coby to -</u>

- Her Chint Commissioner, GCS | & C Hs. Antrodebac Zone, Atmodebal,
 Her Commissioner, CCST & C Hs., Knevneger,
 Hor Acclaionel Commissioner, CCST & C Hs., Knevneger,
 4, cont Commissioner CC ST & C.Ex., Knevneger,
 Cuertible,