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<u> </u>	টাটা পিছে। উপউদ একে ব্যায় এই কিন্তু যে বিশ্বৰ দেশে গৈ দেশ যে বাই প্ৰায়িক প্ৰতিয়া কৰাৰ প্ৰতিযোগ (104 কাঁচালে ক এই বিশেষ বিশ্ব কৰিছিল। এই দেশে প্ৰতিযোগ বাৰু জিলাই ইয়াই ইয়াই হয়। উঠা বেলাকেই ব্যায়			
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т	প্ৰদিশৰ পূৰ্বেদিৰ বাবে বাবে পৰা পৰা দল দলে বুৰু প্ৰথম হয়। মুখ্য হয় প্ৰথম প্ৰথম প্ৰতিষ্ঠা মেচাৰিকে পাঁহিকে কি ব মিলাৰ বিদ্যুৱ হয় উপটো আৰি আই মহিলাৰ			
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- দেশৰ ও পৰা পিছি মন্দ্ৰ আৰোগে উঠিও এই দুই এজনাই চুইইমান ও পুনা কৰাই দেশ বা পটা কই আছেলৈ কৰাই, চইজ বা তে (ইউ.) ক আছেলী উঠি উঠিয়া উঠিয়া উঠিয়া হৈছে এই উঠি কা উঠিয়া আৰু উঠিয়া । কি মেছৰ ভৌগৰজনৰ উঠিয়া এই উঠিয়া বিভাগ কৰাই বিভাগ কৰাই বিভাগ কৰাই বিভাগ হৈছে, মেছাইছে সেছে ইউৰ ভাৰত কৰাই বিভাগ আ উঠিয়া বিভাগ বিভাগ কৰাই বিভাগ কৰাই বিভাগ কৰাই বিভাগ কৰাই বিভাগ কৰাই হৈছে হৈছে হৈছে হৈছে বিভাগ কৰাই বিভাগ কৰাই ব ıΓ
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ৰাজকে প্ৰক্ৰিয়াৰ হৈ হৈ বইজে হৈছে উঠাই বাবে নিৰ্বাচনৰ এই এই এই জান চলাই বিভালনে বাবে বাবে ইয়া বাবে চালে। বিভিন মূল প্ৰথম বিভালনে ই পদ্ধ উঠাই বাবে বিভাল পৰিছে। মূলকৈ আইলেই ইংকাৰ মেলেই বিভালনে ইংলা কেইবাৰ কোনেই বাবে বিভালনে উ বিভাল কা আই আইনেই বিভাগ বুকাৰ প্ৰিয়ালয়ে পদ্ধ কা মহা ও পদ্ধ বিশাহিতে মূল্য কা বিভাগ বিভাগ কোনেই বিভালনে বিভালনে মূলক কা আই আইন 120

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- char and exploration, for the tener is also and the providing of 1000 shares?. This is a shifter to age to be a of the evolution for the bill better and the formula providing the second s ıŀ
- ana an 20 ta 600 milian antar antar manini na 199 manyi kanga shi antara ta kata ya sa kata 2000 milian anga wasa dia saya kata 200 milian "An kata baran ana kata kata barakata mangara kagina kapatan kata dia nga bata ana ay kata gaba ta a "Mana ne separatera ta 200 milian atawa bara ya t ιGi

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:: ORDERs IN APPEAL ::

Ma, C. U. Shah Medical Control (C.4 Hospitet), Vithat Press Roard, Standdranagen, 963(01) (*Introltetter referred* to les faquellant), has fired two appears against Orders in Original No. 92 8 903 ACI Stand Dist 2019-17, datat. 08 03 2017 (*Introltetter referred* to as the *Varpageter* order)) pressed by the Assistant Commissionar (Contral Exclored Standard) (*Introduced to as the Normalized Logical Exclored Standard*).

The funct faces of the case are unst Appellant was expaged in 2 providing taxable services under the category of "Renning of Immovable Hoporty Liand eliasaton was canied but at the business promises of the Appellon, and incriminating documents for letting sneewsheps in the premises of Appeliant were recovered, levest-pation revealed that Appellant had provided services of Ronting of http://www.yet.ie Provelly/ during Cot 2008 to Sept, 2014 and not paid scheme fax on the value of Rs.2 (2.03.2004) monament by them. This other relet into issuance of Show Cause Notice called 15.04.2015 nemanating service tax of Rs.24,90,8454 under provise to Section 78 (1) of the Finance Act, 1964. (LefensReniefened to as "The Add"). Another Show Cause Network 13.10.2015 was issued demanding service (as \propto Rs.4.27.63 / for the From \$1.16.2014 to 2004 2019 subsequent period. he lawer Adjust control Authority and a managener and an decided the same cause totices and confirmed service tax domands of 1kb/24/98.045 and Rs.4,27.331/ Under Sothen 70 of the Finance Act, 1904, ectored Priority under Section 75 of the Act and imposed benefities under Section 78 as well as Section 78 of the Artillas whill as under Section 77 (1) (a) & Section 77(2) of the Aut. Real Provide

 Being aggrished with the margined order, the appollant preferred the present appeals contending that

(i) It is not alloged and proved that the appellant is earlying out activity of basiness or commerce; that unless it is proved that oppellant is engaged to the activity of business or commerce and bad contour out immovable property in the course of furtherance of business. If e provisions of Section 65(90a) of the 7xt are not attracted; that

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adjustitating sufficiely has not considered provisions of Section 250(44). Section 656(a) and Section 65 (10a) of the Art.

(i) Appeliant a registered as charitable hust under the provisions of income tax way, 0.60° and ongaged in providing method solvice as affordable rates and not carrying out any business or commercial activity and conce, permission given by appeliant to exercise method were in their premises for a finited period to fit there the cause of charity carried be treated as a remaining in the course of turn termine or twisness or commercial efficiency of the resist to have provided hereby of unmovable property solvices.

(i) Appendiate is also object for exemption used: St No. 4 of No.) (edited 25/2012- called 20.05.2012. If all it is parified by the Central Sparified D test Laxes, vale 0 remarine 75/2018 dated 10.10/2016 it all turns such payment which is not adjusts the spains, periodicitient is not a payment in the nature of remination comparing of Section 191- of Income tax Aut 1.931. That they refield upon Non'die CEGTAT's order in the case of Greater No.2019 as held that below received to the North Section 20.000 (191- of Income tax Aut 1.931. That they refield upon Non'die CEGTAT's order in the case of Greater No.2019 as held that service tax and the case of Greater No.2011 as there is a was held that service tax and or Section 10. (10.) (2227) read with soften 85 (0.04) participation of the charged on the "prendum" or "section" part by the lesses to the recommission as would be charged or only on the rest that considering the legal position screen law was upperable on crighter for that on Such "receives by the Appeltant.

(v) There is no legal provision to camenit service tax on "proportionate lucrosum tender amount"; flat, at most maintenance charges received by Apaciliant on monthly cases dati to treated as real, which are below to esheld limits specified in the law.

(v) Appeliant was uncer bonatice belief that boing a chantable trust they were not engaged in exercise or commerce and bonds their act of grapping permission to operate a medical store in their premise for a coeffine donation commerce to treated as manning of monovable property service for lowy of some law. Hence, table is the matter of interpretation and hence extended period cannot be invoked in their case and therefore, percary under Sochen (Sivas not imprevable).

(vit - Section 76 and Section 78 cannot be invoked signalizateously in

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view of insellion of proviso to Section79 with effect from 16.05.2009.

(iv) Appellant has not collected any senace tax honce, decarries as well as monthly memorished changes, even if it eated as here. In onerging service tax are liable to be treated as inclusive of service tax.

1. Personal hearing in the matter was attended by som Vikas Menta, Consultant on behall of the Aspetianti Shill Mellita reiterated the grounds of Appeals and submitted that Aspetiant is a Trust' and hence the amount of Subhatt (donation) capitible freeted as Rent that Nonble CESTAT in the case of Greater Noide Industrial Dev Authomy reported as 2015 (38) 518 1962 (The Del) has distriguished rent from Prepriate/ Subhat is in theF case, that Hen, blo Tigh Court of Kolkata in the case, (FMS, Talinity Inform Parks Uri reported as 2014 (53) STB 57 (Cel) has held that Salami/ Fremium/ Subhati is not mil; that it has been eighted that comand wit to time bar ed as to this case.

4.1 Appellant have additional written submission patert 17.02 2015 to say that donations received by their have ristling to be with rently that rently revailing in the large of main promises was Rs 20.0004 to f(s.25,0004 only; that they am submitting Centrose Sales 17.02.2016 issued by Son (Chellen Palich, Cens). Civil engineer, Submicromagan cellifying that monotoneous of a step having area of around 190 Sq Etwas in the range of Rs 20,0004 (H-1096) per monor with the engineer of around 5% per proton depending upon remark supply market conditions

FINDINGS

5. I have gone through the facts of the case, impugned order, appeal incommandum and written as well as one submissions mate by the Appellant. The issue to be decided in the matter is whether appellant was table to pay service tex on the emotion received by them towards long of space by them and whether services provided are exempted under Notification 2020(12-8) detec 20.06(2012) or otherways

If indicate Appellant has vebrainerity argued that the aurounts received by their were "creminant or "Soki diffician that take of the property under a contract. I and that radis not in dispute are that (poellant has vebrial ed an accentisement for inviting feature for weight of the space for

N. J. Service

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Apped No. 32(127.8-125) EVECTO

Le puipese of luming simple a some in their Hospital premises of peyment of troppurs amount unrary for the period of 05 memory with upset value of Rs.21.00.0004 and Tenders were called for Lital the tender cated 30.037/008 for Rs.03.08(1400) for the use of space for the period of 05 months it all period from 10.05.2017 was accessed; that for the next period of 05 months it all period from 10.05.2012 to 22.04.2016 tender dated 22.05.2017 to 10.05.2012 to 22.04.2016 tender dated 22.05.2017 to 15 it 1,71.00.0000- was accepted by the Appetent, this also not indispute that maintenance charges were being collected on reprintly that for the appetent are not a form the tensee. Thus, the anount collected by the Appetent are not a formation amount os claimed by them autivers trong collected for period period and for eligible that were called for period and formation of one time typeriod.

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51 Ease find If all Appellent I ad published advertigement calling for Funder by setting "upper value" of Rs.21.00.0004. Therefore, lender with an tossit value to ta space to be used for running e Medical Store is pure business activity can not as treaten as "denotion" offered by the ingrest biodiation PX 65 65 660V- to the first period and them Rs.1 71,00,0004 for life next period of 35 monors. It is not the case of Appellant that amount paid by the Lessons finated as donalish by the Lesse at diwas a Jonalish In terms of historie Tax Act, 1951. I find if one the Appellant's letter bated 05.03.2016 and Show Cause Notice, dated 16.10 2016 that Hom 2028 of Ibn Abcellahl shows Lesse Sin, Nevnaperi Rajubhai Thekkar has made the payment by decucting the TCG. Thus, in since a domation in terms of Income Tax Act also. Ancelent has provided a certificate valed 17.02.2019 from a consulting pixit engineer regarding protable rant. prove long during 2016 in the vicinity of the promises of the Appellact 1 line. that the certificate reliasued in personal paparity on the basis of personal experience and has no legal support to decide the matter of senace tax in If a present rase.

Appeliant has relied upon Para 72 and Para 74 to Para 77 of the debision of Humble High Court of Celocula in the base of M&L atmix informs Parks (Miropanes) as 2014(34) STR 07(Cal) and also debision of Homble CHS (AT in the case of Creator Nordal and Day Aythority roported as 2016(50) STR 1062 (Tri Del), 1 (risk that Harible High Court was dealing the case of prevolum of realism) and has received the Lonfale Supreme Courts (Hols of the expect of Income Lax Arc. 1954

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Appeol No. (20127-3), 26(EVR)2017.

distinguishing one time oremum as 'Cabital Income, against the periodical Front Income, which is bot the base here as souce is not derig let for longease of 90 years or over for 10 years for that matter. Also, payment made by the Lesson high case is for period of 25 months and hence. This again a not a capital expense for Lessee as this is a periodic payment or use the space Lesson by the Appellant. In the tests of this case, if can not be said that the amount paid is 'for obtaining base, and it is nothing out a cayment for fuse, and occupation' of the immevable property. Pashg event under Section 60(105)(2222) heav with Section 65(90a) is renting of intervable payments that a payment to be leveral or the element of rank i.e. the payments that all of our Unucus en (opment under lease which are in the usure of the runt respective of whether this run is only use μ is to be or the advence in units can be made application of the test of the considered way that ause are rule in units can be made application of the definition of the same of the runt respective of whether this run is only used that ause are rules upon can not be made application the origination are in the payments rate of the runt respective of whether this run is only used that ause are rules upon can not be made application in the origination.

8. As regards exemption under St No 4 of the Notice: 0 (25/2012-ST data), 20.00 2012 (Settiev by the AppelLot, 1 and that the memption is evailable for characterize enders undertaken by an analy registered or detection 1/44 of the linker e Tax Act, 1961. Exemption at Sr No 4 and Settinities of Charicable Activity under Clause (b) of crars 2 of the Notificable read as under

 Services by an analyti-space educates sector 12AS of the Inden elast Art, 18t1 (45 of 18t1) by way of chantable convers;

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 (\mathbf{k}) — follow table activities i means activities relating to

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(i) Dubic health be way of
(a) Each of course log of (i) lentimely is below as a persons with severe longered or mental discoling, (i) reasive afflored with HIV or ALCS, or (in persons courses to a dependence forming substance such as narcos as drugs or alother or ming substance such as narcos as drugs or alother or
(b) public awareness of preventive licetic lendy alother of Winflection.

3.1 If red that the appollant had provided the space on lease for a consideration and hence, the arc willy does not quality to be. Cliantable Ability? as defined in the Not fication and hence no even piton is available to the wepetantion the ground.

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AGREENS WAT AN IZWEN S2(17

the appolant turner contended that the demand was time. barrou withere was no chaptession of tasts and/ or malabee interflate. herei or intention to evade payment of cervice too. In on oral of soluassessment, the onus is on the assessed for compliance of law. In that context the meaning of 'positive act of suppression also changes. The scheme of levy based on voluntary compliance cannot be induced to voluntary payment of fax by arguing they little a no positive set of suppression motived and not taking registration. The provide the assesses to comply with the regulations, it is if en duly to some before the department, devia e the exclusive spok generation of the department th required. In this case apactlant that coll given any information for the recongation was started by the department. Therefore, Appakant taked to prove their bonofice in passinge of any symmittication with the department event themestably and any doubts on coxability. We even on (8) De justified in the guise of conductor to taxability. Therefore, suppression at racts and intent to evade the payment of pervice tax amestablished in the case and hence, invocation of conandal) passed in der Section 72 (1) is justified. Therefore, per any under Section 78 imposed by the cv (using the) will using also legal and proper . Frequence has $Q_0(e_1,e_2)$ It's Pon'ste CESTAT, un alcase of TVS Meetr Co. Ed. reparted as 2012. (29) S. L.R., L'r (Unit- Chengal), wae ein it sitteld as under ş. Series

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"13. So its as ground of the controly admission by leasend measured to point project interest in interfacility on the mean of which page the appealant avoiand for Couldy Johns The when it is an established becomes contain with what experience in application of the animal of manages Are' 1984. I'v manare that not declene board MAr ornishina. Concordents suggest mar interable her varial the conto- \mathcal{D} e equelent to soller adjudication. Accordingly, m immunity interpenalty is possible to be another on the plan of law assumption. and when was much to be a twee on payment of an on the https://www.services.provided.chmng.the.colovashpenic//*

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9.5 65 regard Appellarity submission for non improving of simultarieous cenalty under Section 78 as well as under Section 78 of the Δm_{e^+} fund that point by under Section 78 is impossible in this past one atom imposed in respect of confirmed domand at Rs. 24,80,6464 and Penalty. upper Section (4) is imposed for portuned demand of Rst4 271-314portaining to the subsequent period when no suspression of tests alleged. vely builledly. Therefore, i find that no simultaneous penalty use been incested in the impligned other and hence Appellant's argument is notsupported by the fact at all.

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10. As regards appelance bles of our law benefit, the neitinground put rand is that if by have not collocated any sonate rax from the service reopient. Thus, consideration received is not indusive of Service Tax and hence can tak value is not acceptable. This by not applying for registration and suppressed the material table from the copartment as docused in Para supressed the material table from the copartment as docused in Para supressed the material table from the copartment as docused in Para supressed the material table from the copartment as docused in Para supressed the material table from the copartment as docused in Para supressed the material table from the copartment as docused in Para supressed the constant of the appolant method for the table for other for the table of the law of the base of Mar Dailer Board Dailes and Severages List reported as 2011(205) FI 1241(1), wherein, it has used held that such bore to be ease of Mar Dailer where the duty tax evalues one the constraint to coartic payment of duty/ tax. I therefore, hold that the appellant to coartic payment of duty/ tax.

In View of Foregoing costructor, Thotal the Appeals do not sustain be morefland broce the ject the spaceto filed by the Appendiant

१६ ८ । अर्थ तकर्या द्वारा कर्ण गई अपोली केन्द्रियात उपयोग्त संघोर्य संघला करना. हे।

*1.1 De spoeals fied by and appotent eland disposed of as appoint

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<u>Hy Kegri, Post</u>AD

To, M(a, C. U. Sheh Medical Dentre (C.J.Hospital), Mthe/ These Read, Suren changean, 030001

मेगर्रा सी ए श्रिक्त भोशेकल संसर (सी ज होगियतल) विषय प्रेस संस्त ज़िस<u>ेक्तन स्वयंध्याल्ल</u>:

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 The Chief Commissioner (CCST & Central Expland Annedabac Annedabac

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