

्रतार्कता (३९%), हुए नव नवर प्यस्त नेहाहील करातु एक केवा नवर प्रियु (हुपाद, दारवट) о/о тне сочтива смек (4 меже), сем пошев на ексек.

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#40 P-0015

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BHV-EXCUS-000-APP-066-TO-068-2018-19

त हुआ का दिलंक :

जामें पास जा हामोड़ा र

103.06.20131 Data of coston.

47.05.2014

दुसरक सर्वाप अध्यक्ता (धरीलस्य, स्वायोग एकम् साहित् (

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- ममीजनको ६ प्रिक्षित सर करण एवं एक १५० १५४००५%Address of the Appollants & Respondent :
 - Mo Hansal Casting P. I. Bir. Pro. No. 17, Village J. Vadia Talenta Sérier, Dis. : Brawnegar.
 Shri Jun Bansal, Director, Mos. II: need Casting V. 1 Int.

 - J. Abri Hermanskin, Neputial Jagosi, 55, Yilian Caraphae, 4 ^a Roan, No. Saulian, Mai, Warjarwada Posaid Kharanggari

an entropy है है के क्षारिक <mark>कई सामेज किएकी किए कोई</mark> के सम्बद्ध करियान) करियान के दिख्य है है है है है के किए किए कि उपने के में कहा करने दिख्य के **Chân n-Asche ma**nt a en dewel le man hy come a select, and a become way with

ৰাম ন্তুৰ জন্ম কৰা কৰা কৰা কৰা কৰা পৰিবাস কৰা বিষয়ে ৰাখনৈ পৰিবাস কৰা হৈ এক বছন প্ৰিটাৰ প্ৰায় বাংলা কৰা স্থা ৰাম্যালৰ বিষয়ে প্ৰিটাৰে, সংগ্ৰাম হৈ হয় হৈ এই এই, মুন্ত (১৯৮ চন্দ্ৰ) আৰু বাংলা ৰাখ্য হৈ

nggalan ang kang menanggalang sebagai di kang ang dianggalang Santan Sak melabah 1964 (1964). Pelabah Pelabah Pelabah Penggalang Santanggalanggalanggalanggalanggalanggalanggalanggalanggalanggalanggalanggalanggalanggalanggalangga

ং সংগ্ৰহণ প্ৰত্যুৱন কৰিব কৰি সমূহ দুলো কৰিব অসমে সংগ্ৰহণ কৰিব এই কৈছে। বাংগিছে একেই একে ইই জনত এই জনত এই এই এই ে, সাম কৰিবুলো এই কিন্তুৰি এই এই এই এই বিশ্ব

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त्वतिक प्रतिकेति १९६१ मा क्वल कर <mark>भारति का भारता कि उस्ती भारति उस्ता कर की</mark> भारति कर का क्रमान कर का क्रमान कर कार्यक विकास के बीच कर के बाहित्य कर्यु करिए जमा कुन के भारताकरों के आक्रमान अस्ति के किसी की है है।

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- Digit (क्षिक्ष कराम के मार्ग के के 1 (क्षणी हुए के इस्ताब कराहें) हुई के उसे उसे एक एक कि मुन्ति, 1959 के उसे 22 है हरण के मुद्र के प्रेटिश कराव के 1 कि के कराम को कि कराइ का अधिक इस उपन कराय है है, कि करा कराई का के प्रकार की हुए की के अधिक की की में कराम की देखा के कि कि प्रकार के कि की कि कराव के प्रकार कराय कराई कराई कराई की की की हुआ मुक्ति की मुख्य मुद्र की के प्रकार की की कराव कराय की महिला कि कराव कराय की कराय कराय कराई कराई कराई की → 4 022 € 1: and the second of the second Let be Maragine at the Art of the Appendix of Appendix and Appendix of the App
- वीर रहत में हैं करार पहले में कर के देशन से दिला है किया है। उसके में कार में क्या उसके पूर्व आधिता कर की प्रा पार शिक्ष के उपकर कर की के समझार कर दिला मान की में अन्य की मान की मान की की है। उसके मान के उसे अर्थकार भी का के किया का उसके की का कुलानिक कर की किया है। उसके मान सी कहार समझार किया है, या सुरक्षा, उसके मान किया क कि कि की मान की को को मान की किया है। या कर की किया कि उसके मान सी कहार सिंहा कर की सीमार सुरक्ष

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- ्रिती क्षेत्रक के क्षेत्रक के प्रतिक के जिल्ला हुन के जिल्ला कार्यक्षित के हुन्य विभिन्न प्रवणके के खुन कर की कई है आ देव विदेश के आवश्य (१९८८) के बेक्स किंद्र अधिकार के उन्हें अधिक के किन्द्र के दिल्लाक के कहा, के कि कहा कही की कहा कहा क कार्य के कार्य के ...: e (gradiente). No Branch, le Stroment de la bescherock production and en all manuferrale de la gradiente en en en Arma La Branch and Branch, la distriction and en Branch and en (Signalistic order), la distriction and and ender Geo 196 after Franch in 23-Act. 350.
- ार का किया है है। हिंदा है के सिंह कर है। जो है के का करका कर पूर्ण की प्राप्त (20), जा के दूर है है, है है हिंद है। बोर के पार्ट के किया के किया के किया किया है। जो किया के किया किया के किया के किया के किया के किया किया के किया किया के किया किया किया किया किया के किया के किया के किया किया 151 ारक का उस का करा। The recompliance of the trace is distant in Torcino Coding specified under four and decrease of the _{Phil}mode Code of the Armin the trace of the Code of the trace of
- पुर्वन्ति । तीरा विकास देव क्षेत्रित देवीका (क्षा) वृत्ति का वृत्ति क्षा । तो तीर का का का का का का का का का तीर का को 200 का कुल्या का तो आहे जो का का का का का को के स्वाद्ध है की कार्ति का का पुरान का का का का का का किए को का की कि 200 का का कि अपनी का कि को का कि का का कि का का का का का को कि दोन का कुल्या के का का का का का का का का का कि 200 का कि का कि का की का की का कि का कि का का कि का का कि -11
- d is the first in the second of the second process of the green where, and the second in the second
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- g y lys, to 2 strong a transcente prediction production (100 pages of 100 pages), by a polytopic of the page of the control · 1
- ေ မရိန်က ခရုမေရေး ခံ မြင်းသည်။ မရို ရေပြောင်းေတြမှာ လူရန္ မရွင္းလိုင္းပြဲသူမွာ ရက္သည္ ရရိန္တာ ပြဲမွာေရာက္ခ်န္မာလွန လူနှင့်သေးရေတြကေတြ မေရြးသည့် ကရိုးရေရေလည်း သို့ ရေသော အေပါသို့အသည်။ လေရင် ရေသည် အေရာက် ရေသည် သည် သည် လူရှာ သီးခြေသည်။ လေရောက်သော သည် အေရာက သည် အေပါရိန္မာရေတြကြာသည်။ လေလေလျောင်းသူတွင် 301

:: ORDERS IN APPEAU ::

The percent mentioner appeals have been filled by the Appollants (herotration referred to as "Appellant No.1 to Appollant No.1") as despited in the laboragainst Crote vin-Original No. 587-pages (homens (16-17 date), 30.03.201 of therefred to as the impugned order) passed by the Assistant Commissioner of Commissioner of Commissioner of Commissioner of Commissioner of Commissioner of Commissioner (homes there) in as the own adjudicating authority')

Sr.	Appeal No.	Appellant No.	Name of the Appellant
<u>N</u> a.			 80% Bansa Castry P Ud Piol No.
1	V2/209/BVR/2017	Appelant No. I	183, Villagor Macra, Italiika- Siner
			Shi Atu Sarsa Direcor
' 2	V2/208/5VR02017	Appollant No.2	MAS Bensal Casting Pilitin Plot No.
		1	90, Village, Vadia, Tuluka, Silron
		- · ·	Stri Timarsha Nandlal Jageni 36
3	V2/346/CVTX2017	Appellant No.3	Vihar Complex Forth Floor Near
			Sankeri Het Waghawadi Roed
			I!havrogar.

The officers of Phaynagar Commissionerate acting on an intelligence that some re-folling on talloi Silicit, Veriej and Show agor were engaged in targe scale. evasion of Corora: Excise Duty by way or Candeshire removal of Revolled. products viz. M. S. Rednet TMT Sars etc. with active support of some blokers, conducted, search operations at the premises of QSnr-1; marsha Nandlal Jagan. and Yogesh B. Gangbal hath trakers of HoundPTM' Bars of Bhewnagar and recovered incrininging documents from them coning search. Thereafter, another raind of search operation was conducted at office premises of Appoliant No. 1. and various incriminating documents were recovered, investigation committed infor issuance of a Show Cause Notice dated 16 62 2018 proposing domains of Central Excise duty of Rs.53,50,573A under Section 114(4) of the Central Excise Act 1844. (commeter reterior to as the Act') along with interest under Section 1179/161 the Agraph Imposition of penalty under Section 1140 of the Act mate with Rule 25 of the Central Excise Rules, 2002 (Aprenia/let referred to switche Fulbeit apon-Appellant No.1, personal consity under Bure 28(1) of our Rules upon Appellant. No. 2 and upon Appellant No.3. The Sticky Capae Notice was approximately that lawer adjusticating at thorsty wherein Central Excise only of Rs 30,80,5731-1968.

confirmed under Section 3 (Aptio) of the Act along with Interest under Section 11AC 11 AA of the Act and penalty of Rs. 33,80,573), was imposed under Section 11AC of the Act read with Rule 26 of the Rules, upon appellant No.1 with aption of reduced penalty as per Section 11AC(1)(b) of the Act, Penalty of Rs.23,40,573/ or Appellant No. 2 and Penalty of Rs.16,00,000/- an Appellant No. 3 were shortest under Rule 25(1) of the Rules.

3. Buing aggrieved with the moughed order Aspellant No.1 to 3 preterred the separate little valid on various grounds as below in

Appellant No. 1 :-

- On the beside of third pasy evidences i.e. entries found in the provide reports / and buoks letter served upper Pananhama dates 12 (9.24)2 at the granvees of Appellant No. 3. and partain no initialing documents seized from respectful premises of Shri Yogosh R. Sanghyi unser Panahhama dated 08 10 2/02 that those source moords and various statements of Vehicle Owners/ Transporter agencies recorded as follow up action are not the direct material evidences as staten the charges (moet Central Excise Law without any polloborative evidences pertaining to central evidences maintained by them
- (i) Appollant No I submitted that he has organized for coolea of hele(upon cooliners and associatined their right to examine the persons and brokers before the adjudicating authority, that adjudicating authority has not considered than Calansa reply and obtained the adjudicating process without supplying reflect coon cooliners and inviolation of SectionAD of the Aprels no cross examination was allowed to them that they report upon the Horbite CHSTA+'s order in the case of KAs. Matiatani Dving Kill reported as 2013 (343) CET 452 (Tri-Amedabat), Appellant also being upon relevant case (awa)
 - 7016(338) EUT 749 (Tii)Chemia 1- M/s- Aliance Alloys Pillo.
 - 2016 (340) ELT 67 (P 611) M/s. Unital Drugs P Ind.
- (ii) Annexure Ello the ellow cause notice does not contain condomition evidences liked details of Vehicle Number. Names of boyons and quantity of goods; that the Annexure was not appraised before Snr Aful Repset Checker of Appellant No.1 (net purchase smooth was taken from the seized private documents and Appellant No.1 has stated that the of goods was being fixed, noting to day of taxes and he for purchase amount shown in Annexure-File help

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genuine in terms of Saction A of the Astilas in a not established that whether purchase amount was feanisaction value or twhile Salef value, that quantity of godes having been verified from the Deliv Production Bogister maintained by Approlam No.1 and private recently can not be relied upon in absence of Cross examination by Appellant No.1.

- (iv) Shri Vikram Jain. Proprietor of M/s. Sai Corporation, Shavnagar inselectated that Shri Yiggesh R. Sanghvi was working for their firm on Commission desis as a "Chhantivala"; that the work of Chhantivala is relating to manage leading of such agreed upon goods into the backs in the meser os and no confessional Satement is given by Shri Yogesh Sanghvi.
- 94 Appellant No 2 who is a director of Appellant No.1 bed simply per iscoling. seized documents and various statements; that Parichnamia drawn all the office. premises of Appellent No.1 in pursuance of europeans Islaed 26.03 2012 wherein time of visiting office is intercologically $23.35~\mathrm{hm}$ of 26.05~2040 whereas Panchicena . was completed at 14:30 his on the same day i.e. on 28:00:2015, that it is not possible to verify each and every emby of Armazura Hippoprating of 151 collection and nour which also industrict the time of searching of the office and taking the statement of Appellant No.2, that 131 entries were consisting of peritorials of date. schicle number, weight and the name of the rotting mill or coding system; that all process was done in hasie and statement of Appallant to 2 was recorded without proper vertication of segred decurrents and page and every suized private note. book was not ill verified, that statement of Appellant No.2 was insorted on i 28 10 2015 in very what time and proper apportunity to verify the concediness of seized adduments was not given at any time of investigation; that no requiry was extended to the persons whose statements word recorded to justify the gennineness of the digries; that I Shi. Aud Bareat has alongly percent that and eelege (gournants and never confessor the removal of consignments consisting of 104 entries, from the factory. If all 60 DQUITY 968. conducted with the cirector with regard to correctness of the documents seized under Parchinania (i
- (vi) I have denotes in resulted of purchase of rew material without invokes, excess employments or excess consumption of electricity were additional.
- (vii) Findings of the adjudicating authority are given only deline basis of say 614

submission of broke's and owners of the tracks wancer correctating evidences relating to perceat excess reconstruct raw material register, manay flow in cash, etc. and without granting permission to cross exemination of the windsses.

- (vili)—The relationship columns had been provided to she form of GD and not in hard form as required to meet with the private renords/ note books ware not swellship to determine the case; that may ray on the open in case of M/s. Shivarn Steel Corporation reported as 2016 (838) ELT 310 that when the relied upon columness supplied in form of 30 ft ast round in accordance with the conditions laid down upon Section 383 of the Abt read with Section 650 of the Indian Evidence. Adt, such columnate reamon, the accepted as invadance to trained changes; that no levidence has been placed on record that the relied upon columns had been expelled in accordance with the provisions of Section 76 of the Act.
- The adjudicating authority has not appreciated the case laws reflect open by Appeller(1No. 1) that they relied on the ences in the cases of of Mrs. On Milminum Pvi. At imported as 2014 (311) ELT 354 (Tit. Ahd.) Mrs. Adam Enterprises LIS reported as 2014 (311) ELT 354 (Tit. Ahd.) Mrs. Adam Enterprises LIS reported as 2015 (924) Hill 4/6 (Mac.) and the Hoolate CHSTA. Anneatabae Order No. A/(1000 11004/2015 dated 17 07.2015 in cases of M/s. Baltang Castlegs Pvt. 1d. which were applicable in the present case; that the adjudicating suithority has wrongly and without authority of law confirmed like CE daty, which they ere not required to pay and thus racy are also not liable to day any penalty imposed.

Appellant No. 2.3:

Appellant 19.8 Encotor of Appellant No.1 released the grounds raised by Appellant No.1, and also accoming that the has not contessed the facts and ordinastandes mentioned in the back seized digress and no persons whose statement have been monthly has stated that he was involved in evasion of contral excise duty, that his statement dated 25.03.2013 was recorded in frastelling no passon has stated that remove introspute goods was made as por the direction of Appellant No.2, that it is not proved that Appellant No.2, so be left that goess were traitile for contistation; that no such charges were framed in the snew cause notice for Iffatherroys, of goods and for its contistation.

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Appellant No. 3:

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- Appellant No. 3 submitted that the impagned order is non-speaking and nonreasoned one therm to been the forces acquirigating out on the new occurrence. pleas impde by him in their written submission and also judgments referred by them were completely ignored. That the implyings often like Lean Issuer. In: violation of principle of natural sustage as coming personal feating they had rent extect to expuly reflect upon documents to defend their case, that Appellant No.2 is not liable to penelty under Rute 20 at the Rutes as the rac not knowingly. and interchanally opines red with the designous of the finished goods on engaged. him in any way. that he discharged his bindliers by tranducing the purchasor and thorators, the Imposition of penalty under Rule 26;1) of the Rules does not arise instructions he being a broker was called in by the purchaser of ${\cal W}$ ${\cal S}$ Bars for procedures of the same; that as broken he had introduced and finalized the deal and it cannot be said that he being a better the had played any migration would render M. Silicale fiable to confede on under the provisions of Role 26(1) of the Rules in order to about penal provisions of Bula 219(1) or the Bules; that be had not in any way conspired or colleged with Appellant Na.1 to facilitate evasion of racise buly by them and be never as rad Aphallant No. 1 to rammy their this sec goods planneslinely. Broke to
- I had be had only prekonnel the sale and had nothing to do with the sale of (5)the excisable grocus, that he had not asked the seiter to sale his grocus iffailly but only introduced the purchasers to the soller; that brokers, have dealt with the goods. just as link between boyer and seller of the good; that even if it is admitted that he and indulged to clandesting removal of goods and whatever without in documents. are details of code illuit hansactors, then one has to have the evidence ! Yes. selies regarding slight sale. Transport of siten goods; first this case is not covered. under subincie (1) of Rule 28 as he has not dealt with excisable finished got (8) in any mander whatsoever and he had only introduced the pulchaser; that for a sensity on any be son under Rule 26(1), or me contribution is that efficient adquired. possession of any explanate goods with the knewledge or belief that the 60008. were lieble to conflictation upder the Action had been in any way concerned in transporting fromoving, depositing, keeping, concealing, setting of purchasing of had in any other marmer dealt with any excisable (1004s with such intowedge or Let efficiently energy on Studies and in the case of Godres Beyon & Mig. Co. reported as 2002 (143) ELT 181 followed in At M. Kulkarmi = 2003 (16) Kit: 1572 (CEGAT) Mujnosi) and decision of Ram Nath Singh (12005 (151) ELT 451 (10-Dat), that

any person to be penalized under the provisions of rule sincle also be shown to have been concerned in physically dealing with the excitable goods with the chowledge or belief that the goods were liable to confiscation under the Act/R that ha is not liable to personal penalty of 85.16(30/0004 as imposed under Rule 26(4) of the Rule wide the impropried order.

- Advocate on behalf of Appellant No.1 are appellant No.2 and submitted that no excess goods or short goods were found from the premises of Appellant No.1 that no excess goods or short goods were found from the dievict search at their end, that Director has rever confessed/admitted diables moniforation or of arranges but SCN 8 impligated order mistaken this fact and shown writter or of any correlative partly documents can't be the sole ground in absence of any correlative evidences of psichases of raw parentals or sale of finished goods depletinely, that express of relied upon population ray to ment; that even cross-examination of low/or 8 transporters (whose steam ents I ave been relied upon) assume their premise applications (whose steam ents I ave been relied upon) assume the premise applicational logal requirement and also to ascertain minn; that the demand lating os real as extended time not hydrostical in this case.
- 4.1 Horsonal Hearing in the reafter was attended by Shr Machay Vedecadya on behalf of Appellant No. 5 and reiterated grounds of appeals and schmitted that the reprigned order should be not as do and no pend ty should be imposed on Shr Iliniansha Nanotal Jagani it. Appellant No. 2. Because there is no compounding evidence; that procepts of natural justice have not been followed by the Department, mash tipn 6s at RCOs have not been supplied to them. He filso written submission whereight your intends contended that various decisions relication by the activities authority was not applied to bits case.

FindIngs: -

- 5. Isave cereatly gone through the facts of the case, in page ed order and written as well as oral submissions made by the Appetants. The issue to be decided a whether the Impagned order, in the taxa of this case, controlling demand and imposing penalty on Appelant No.5 & 5 is correct, egal and propor programs or
- Bill I had that the others of Gentral Excise, Basknaget conducted scarcinoperations at various places inducting of brokers and recovered various

Page - n. 19

incriminating decompants like diases introduces, files isose dependent. Laborithal that the statements of Sign Himans in Nancial Jayani Lanc Shir Mogash Ri Sarghvi, both trockers were recorded by confronting them was the recovered records and the appreasing recorded in the molebook/casies recorded under Parichisania procedurgs revealed manufacture and clands the decreations of M. S. Kound/cM.L. Sars to hayers against cash haras April without CC invoices and without payment of CC duty. Application No. 3 has in a detailed manuar explained the pages used and the harasollous recorded in the said cotebooks/daries.

- \$.1. In the grounds of appeal, it is submitted that the adjockating authority white passing the impugned order has ignored the submissions make (ty them. (the perusal of the impugned order it, is found that the perudicating authority has detailed the defense submissions at Hara 7.1 to 7.4 or the impropert order, and has also decased the same white giving his indings from Para 38 to Para 33 and from Para 4.1 to Para 45. Thus, this engine of put high by the two Appellance is decord or media.
- 2.2 I find that hotore incording statement or Appallant, No.2, all decomentary evidences recovered from the office premises of Appellant No.1, Appellant No.3, and som Yagesh R. Ganghel (Smear) ware shown to then Appellant No.2 in his aterements (later) 25.03.7018 and dated 23.10.2015 calegorically stated practice. adopted by Appellant No.1 relating to sale and cloarances of their finished goods. and gave detailed explanations alter going innegrial. Pancheanse crawn buring the investigation at different promises and all the statements reliabliagon in the show sauso notice which included algorithmic group by Appellant No.3 , and Shri-Yaqesh R. Sanghd, both Brakers and also syncis of the Track through which Hansportation of goods was made. Appellant No 2, was also lighter but caportually is peruse indininating documents, statements and duty calculation we kathest before giving statement about the then and correctness thereof. He was shown dow calculation Arriespres HJ, YS and X prepared on the Lastis of invisingation. showing transactions carried out through Appellant No β and Sin Yegesh $R_{\rm s}$ Sanghai, both prokers of Appellant No.1. I find that the cocumactary concenters and statements of the brokers and transporters have been discussed and reproduced in a very elaborated marrier in the Imprigned preer and many transactions recorded in the solded private records were locald talking, with the <u>გნექტუ იტეიქუტებიათანიია of Appallant No.1, which prove authectionა დ</u> transactions and details coaleined in the reflect (pondactions and relevance of

those for auto liability on Appellant Ma.1.

- I find that adjudiced any entirotity, at Para 13, has discussed the various. 7. soized documents and explanation grow by Appellant No.5, I find sample copies: of digries have also been placed under Para 5.2.1 of the Show Const-Mixtor T hind that dispatch and transportation of goods, as discussed in Page 17 (# UH) impugned codes, are restablished by way of confirmation of details encomed in sozer) documents by the owners of the Trucks in their respective statements. Also Para 24 of the impagned order, explains the revelotions made by Shri-Yogosh B. Sanghvi in respect of datats written by him in earlies scized from his residence, core aling purchase and sale of finished goods from Appellant No.1 and buyer of the godde. Taken find that Images or sample copies for such implanation. have been placed under Para 3.3.4 of the Show Couse Notice - furnity find that Shri Yikishi Ali, ani ori Misi Shree Sai Corporation, Bhewneder in Tie sletenie ii parted 10.00.5015 commined the suracity of activity or Shri Yogesh R Adaptivity and starce that he was working as commission about lend invoved in the loadjob of godds, being dad Rs. 100 200 as a fixed amount / per celricks. Thus, immediates or conforts of clarific stancs cross checked.
- rit I and production of following i questions and answers recoived in the statement based 29.10.2015 of Appellant No.2, as Lerow, appropriate to understandinglish of the case.

-Glor - History comuse documents mentioned at the No.12 & 14 second under Parameter active 12,69 vs. document of affilia contained of Sh. Historyin, N. Vegani. Broker of (3.3) Sec

Ans. If peruse assuments membered of St No. 11. & 14 sector error Paristromal artes 12 00.12 around of Allice errorders of Sh Haracranical Togoda Brown of M.S. Rev. These Assuments are in force of respected most empower by Sh Haracranic M. Regera. At the extreme signs result side of the respection to the Gerlading Mile who have sold successful the same goods is also marked and in token of perusing the sease 1 pel by denial Signstromatic sides are discounted to satisfact.

O 5 Floade period in encoral networks of No.12 and 14 sector under december's processor on the begin or assuments at Schlod and 14 sector under Paragraphy dend 12.99 9912 from ATML providers of St. Himmania. N. Jagani, Briden CMS: Ger and other paragraphy if any

Appear of people the shaet "opinestice" prepared on the people of providents. No. 12-8-14 social minor elaminama dated 12.59,2012 et chine trembee of Sh

Hage III va 9

Historial of Cognition of M.S. Der Torons about all the entres mentioned in tive short can discurrents for 12 & 14, and found it suit and to falce or sourc, I put My Color Sharain a on Bis Meet,

Historia positio departments morthweed or St. No. 12, without audion Exteriorante d'anal 12 de 12 misem el cilipe premises di 54 figneratio la Jegari, Broken of M.S. Dani

APSC 1 poster weathers made seet at \$6 and 18 seizen großer Panglessus, nietert. 19,99,19 rivevaries office provideds of Smithmanistic M. Jagani. Broken et M.S.Ean inc. Salvar sa persuana (be secce , i put my datao algredure na ma Paga dei 98-98-90 nf. documents the 13. These entrees are determine arranged in real figures for the goods. alleged to be sold by my socipant to. We, Bankel Castings $P(\Omega)$. Sithar through Who Heration, M. Jogoni, Finker,

On 5 - Programment year services report 5 in the page 2001-12 & 2012-12 and lighted tible warne with dinnexion file and Annoytee first procedure on the cases of documents. as inembeded above

A685 - I DANA Accord IG and Amesons YS with my sales register for the ICY2017, 12 and 2012, 45.

Wedfor выучения мосталов и the инполите full and инполите YS tabled. with yours pales induction for 1 Y 2011, 12 and 2012, 100 $q_{p_{2},p_{2}}^{p_{2}}(2^{\lfloor \frac{p_{2}}{2}\rfloor})^{\frac{p_{2}}{2}}(2^{\lfloor \frac{p_{2}}{$

التجافر

elow and your receive payment of the people noish received for your tree adject isocease of impose and adject paraget of pidg? Ans. Hough an old mainty if can not reculed file same.

Q.18 Pipase popular zonowane L. prepared on the free's of Asserve His field. Anneutre 1/8 offer removing the entires in respect of which Central Excise Income

And if parese supposes the entire testing taken of subject with American Halls YS, I pair m_{I} dated agreetism on the series.

 $\mathbb{Q}.69 = 0$ o yng want to say anjitona ette et 2%e gaa0% $A_{\rm max} = 30 \, \rm s$

+ Individual Appellant No 2 in this definer statement dated 26.02.2013 when per gang the socuments mentioned at Si No. 12 & 14 of the Annexista ω Panchrisms galled 12,03,2012 drawn at the office promises of Appellant No.5.



convesce that Appellant No.1 was selling the paper to three convers, however on valification total lenties were found in the records of Arthelant No.5. He also identified those documents as "discared book" preserve by Appellant No II add rilated explained It at name of the Re-Rolling Mills was mentioned to whom goods. sold/ supplied: that they insually self-these goods to those persons but he had no moords in responsion all the orbits inclating to his time. It also tipe that Appellant No.2 has argued that statement dated 36,05,2010 was monded in harror which the tion has injuriant, as autocqueqt statement was also repriced as decuseed hereit above. Appellant No.2 has admitted blearances of finished goods recorded in provide records in himsers, and if there is seen the goods beared with Central Excise invoices and obtains Of lieveless it also the that on being controlled with the thorrminating documents seized during the searches, both brokers in their respective statements, accepted the sumbases of cases cleared by Appallant Not without CE involces and without payment of CE, duty and they know because they artist as brokers in such transactions and orthus ware everything μ then trivate records. All risk of the second

- 7.5 If find that these are substantial exidences doly conocorated which have not been retracted at any stage and therefore, as our thy settles legal position sanchity of the same partnet be undertained by arguments only. It also find that the authorizing of records sexed from the cromises of Appollant No. 1. Appellant No. 3 (Ikidad), and Shri Yoges (IK. Sarghol, brower have been duly conocorated and called with reports seized from other stomacs before quantitying Control Hause, duly liable to be paid by Appollant No. 1. Adjusted ting A (II only at Park 29, Park 31. Park 35.6 and Park 36 least deborately discussed the correction of the contones are table in the ease.
- A 4. Appellants No. 1 has argued that comend at duty, particulate politicised on the basic of dialest and records recovered from third party like brokers And Slimaushu N. Jugani (Appellant No. 3.) and Shri Yogosh B. Sanghvi, and hence demand made on the basis of this party described is not sustainable. In this regard, I find that the diaries maintained by the problems recorded togal, as well as libral transactions of Appellant No. 1. Thus, shrift transactions of Appellant No. 1. Thus, multiplicate of diaries/appellant sources ablusty issued by Appellant No. 1. Thus, multiplicate of diaries/appellants and other private records recovered from the problems during spentill is clearly obtabilished, also because both brokers adjuted to have deal, with the goods belonging to Appellant No. 1 without CE awardes and

I

- Appellant No. 2 has in his statement date; 28,03,2015, especial during that part of the investigation, on being confronted with vital codumentary and ordinations along with duty calculation. Appearance, ediption that they prepare sociable goods will out payment of GE outy and without issuing GE invoices for such transactions. This statement of Appellant No. 2 caled 29 (0.2015 has not been retracted till date and beaute. I ave sufficient evidentiary value, which connot be balloted. The combined approximation of all such combinative deviations reflect that CH outy evasion has inflaed taken place and Appellant No. 1 has included in GE duty evasion. If therefore, and that all raises with and hard, evidences are sufficiently prove the page against the specific is. In his regard, I hely on the final order of the Honfeld CHSTAT in the case of Grit Harkson agarwa, reported us 2017 (346) FLF 225 (1 i-De) wherein they been here than.
 - 5. If make that to hath the unaneadoup ethers shoulded with all local word. $g_{ij}(s_{ij}d)$. The subagapher was $g_{ij}(g)$ thereof our excitations in Φ and ϕ that segences is as in proceedings in product and former interpretable of white the l iforms by this appealant was sompth to be sustained. Approximately, the page to <u>and only beset on the meternal entitlesse authorized from the expansions and </u> <u>and elso as contributed in the responsible persion of this suppliers (5.4).</u> The repeat and use of the seen preparation raw meterics for half in послававите бая царагал!! и Беол цанитей бу бег царайнийх эти бын жау. anort para has also been disconged disma the course of investigation. Janki. The equivalent years encounts on one productily of the further complication by way of defails of beingent messay months are in the ρεστορεί cose τως συνέστους εμφέρ<u>ασε έρχη των ευτρόθει κινώθει κινώπου έρλο</u>δ <u>иму получија во вилитов. То рамкот тоготи од 210 или беле Тема Таван</u> <u>руктиниулда Бүүлд үүдүүл</u>өө <u>Со</u>т бар сархотоос от тау орула<u>да Бу ть</u> possone of the were decheme of the suppliers units. When such pagence was brought before the pertine of the epperheutis and the components. $\overline{n_0}$ was the $\overline{n_0}$ which such products were $\underline{sph}_0^{n_0}$ in \underline{sph}_0^n where $\overline{n_0^n}$

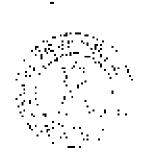
<u>sirging that the appealant has falled a pigo that the december, has up</u>t ustobilisada tad datala of hyyans kud neveron yilgiye liyishish goods tu such $rac{hopins}{h}$ is m_{min} , that the reports presupposed by the suppliers, which ho m n^{05} men div \hat{m}_{T} personal p_{T} conjugate p_{T} and q_{T} denotes a state \hat{m}_{T} in \hat{p}_{T} \hat{m}_{T} <u>was of the equality</u> (that mo suppliers reportation agon) however with th $\overline{t_{ ext{thist}}}_{ ext{thist}}$ with the $ext{appendix}$. In this, we supply in $ext{appendix}$ with materials has ecce complemently me period of the appoint a tent in such alternate it is said benefits for the appellant to, now in mainting at stage. 2009—19н үчйө Түүлөүхтөтөн от стово сусахлараа, сто. Арли<u>тейт, чүүө</u> estimate provide recognize or the statement's jaken daten daten verseeteet op tejer contested for their authorities, in the egyptic before the lightest. The appealant is modified a behind superficient the transforms of the partner of the gradient-line is not polygone, various case less reten grading the ensembers, and not of only support in the persent to use the degree problems. anacescented aroundochine the existence of eyes, eyes are to be appreciated for concluded. <u>As hellen when his like thru g</u>ardy's records at the supplier. $\underline{m_0}$ where \underline{m} is a superscript of the \underline{m} and \underline{m} is \underline{m} . The \underline{m} is \underline{m} is \underline{m} принаментация или сосора от можету бого или цент, стичест, сів аболгого тактиба т<u>ыст ана обнывачніні невій зідере</u> ві вуви**льно**г равовог бе colabilis<u>tical with previously</u>. On careful contratination or the group to dieppeel end the findings in the michagood action. I that he make of his obeying a with the mediags exercised on the latter within Y_{j} . Althoughly, the appeals iare discussed."

 $(\blacksquare m_{i})$ אוויף פוזגרליג m_{i}



Appellant No.1 contended that the statements intled (por in show cause notice are not admissible asidonosa Leosuse proceduse stimilated under subsomeon 1 of Section 9D of the App has not been thrower likely the Applicating . Authority. Appellant also reliad upon the Hon'the High Court's decision in the case. of M/s. Mahabmi Dyoing MID equated as 2016 (342) EES 45.0 (in- Abe) and several other decisions in the motter. I find that in the case on hand, the facts remain that Appellam No.2. Clinella of Appellant No.1. has persent the Statements relied upon in the show cause notice, per sort the documents relized. and accoping the corrections and genuineness of the Jacis recorded in it. Thus, statements are not recoved at the book of Appetiant No.1. The correctings and genuitieness of the facts and appoint by the harden agents; whom the sold statements were a rectof, and hance gives examination of persons by Appellant bo). Denote by inductional all under Section SD as much as dynamical, $c_{
m obj}$ is: succepted by the poison against whom it is lived in it follows. Appellant No. 2 in his statements, has accepted the correctness of the etalements relict upon, who also detected categorically that his statements would be obtained as an $\phi/(\phi_0)\phi_0$ against him and his company it's discussed in megaling Paras, the contentions made by Appollant Northard other are required to be held as inislanding and affor though, pprox 1000 the finithfulness of the statements of the corresponding properties of investigation are not disconditied at any stage in this case. Thus, I find that the correctness of the staten entails established in this case and it is nor the base that





adjusticating sulf-only was readiling the allegations satioal in the show cause notice druy on the basis of the case where investigation is appead among solution from different places and from different persons. In the facts of this case, CASA faws retail upon by the Appolantical made applicable in this case. I find that this ratio of the judgment of Than'ble Sugrence Court in the case of CCH. Muritia: Vs. Mac Rigwest Hoods endis Hot The reported as [2011-HGL 76-SC CX], is applicable in the present case, wherear it is held that.

19 Dunna the loades of arguments feeting counsel epicenthy for the proposition is the company and other persons were retrieved statements of Memography Perton of the Company and other persons were retrieved statement for course of fictions among the reduct of the same were retrieved statements, each therefore, they make a temperature and they were not order, then consists on the County Except efficies and they were not order, <u>plicars</u> Therefore and they were not order, <u>plicars</u> Therefore and statements which by the Memory Parmot of the Company and other represent containing of the details along the forestown of the company which court to make any time details along the forestown or surgestions and therefore and the considering the containing of the surgestion of the surgestion of the considering two see no reason edg the effectively technical make in the change inner or one and relied on the change inner or one and relied on the change inner or one and relied on the change inner or one case and the decorder of tooked was and relied open.

19. We are of the constrained operation that it is established from the month that the obsessed statements were given by the consistent certains and of their particular and there is an elegation of theirs, force consistent direct or prossure being unbred by the officers to equal the statement, which quantities is such other Bookles me telegrap Portner of the Cygg sup on the particular addition the consistent and the consistency of the particular and therefore on the particular and also present or the consistent of the property ones. The descriptions because in the enterprise particular to the consistency of the statements of the particular and the statements of the consistency of the statements of the consistency of the statements of the consistency of the consis

(Secondala superced)

(SC) and at Wis configure Textiles (I) P Ltd (e) outside as 2008(295)ELT587 (SC)



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3.2. If the that the statement of Director' authorized persons of the assessed admisting plearances of goods without payment of CE duty and without issuing CE averages indupatory and not retested yet is admissible as hold in the case of M/s. Hi Tech Alvesives Ltd. (Aported as 2017 (348) ELT 605 (T1.-De.)

⁶14. On rereful remoderation of the feets and encounstances as contract above, I but that the statement of threefor is the book for the demand. The side on the exception and expense. The Diener that is always dieg. the parametrizations records recovered by the others contened aptain. of procurament of row materials as well as alearance of busines goals while rest willered physician of dray. This fact is faither schengiblesest by payobservation that mean curious in the private decreasity are covered by the haverness issued by the essessed on waves only alongs your <u>the Disable</u> <u>έναν στακτίν κολούτας θτα Ινανί, ο ένώς στηρτικ με αναίτ με ο Ινανός που ο</u> Ινα<u>νμ</u>ηροί all goods; supered by the correct in the country half-books which are not increased by the histories. Seen at the east to define the experience has been <u> Jaan Pelif In De Agas (Deat) in the general Systems & Compagnity eq.</u> Ε'α τουρίας, του αυλοπού οι σίαπαιτελής πόλου το ενομοίνο το διε ρεπορέ. by estimate produce exhibition. However, the lade precepted by each жаймана съве ине лидичести съ валическі актомиськичествосовалям. the population has been been either man the professional statement of <u>Der Europhy withig is etw. architect by the menter est exides in the prison.</u> pa<u>nands,</u> innere is no levermon that the statement has been teken under divides. The despessed also about not accounted have resent for more $\underline{\alpha}_{S}$ is the $\underline{\alpha}_{S}$ and $\underline{\alpha}_{S}$ is the $\underline{\alpha}_{S}$ in the $\underline{\alpha}_{S}$ in the $\underline{\alpha}_{S}$

18. In view of the foregoing I find their the Commissioner Appeals) has arrow in ranging the view that more is not evaluate evidence of claudication authors of access. Evals though the abstracted of this Sanjan Kejdoul vibrate week to the the enthry of the private resource requirement has not been recorded, it should admitted by Shiri reformal. Therefore about the motified the entrate corresponds to the entrate corresponds. Consequently, I and no reason to absolute this place of extractes.

48. The extrement of planeterine interest has been unargin in, remails and up a result or investigation codestation by the department. The customers unconficed by the department are not standard disconnects and exact have going providented but his the unarelyptic or Therefore this is a clear mass of expression of tentation that department and certainly the extended points of emission is investible in one case and hance the demands cannot be held to be time barred.

(Emphasis supplied)

- also rely on the Final order the Joh'ble CEGTAT is the case of M/s. Haryana 3ton & Alloys Indirectorial as 2017 (355) Hill 450 (in JOH) wherein it has been held that notegooks seized from the passession of appellants employer as the time of search showing entres for accounted as well as unabcounted goods which have been explained in detail and disclosed by the 65M of the factory and tallying with involons/gate passes issued is trustwerthy; that the statement of the employee running not several pages and containing defauled knowledge like in this case also to be considered reliable. I rally an decision in the case of M/s. Rainchandra Revins Patilitial reported as 2014(300)=1. AB1(3.01) wherein similar blee has been teren by the Hor'tse Scoreme Court.
- 19.4 Lam of the consecond livew that the educited fleuts need not be proved as that been lived by the Horibio CRS (A) in the cases of Alex transvines imported as 2008 (2008) PL-0.078 (in-Minimfal), and in Mrs. Divine Selections lead that Karsh Engg Works insported as 2007 (1866 E.C.373)Thi. Delicities also live what Admission/Confession is a substantial piece of evidence, unless can be used against the maker. The elicie, the Appellant's letter or various other case laws are not applicable in the light of the destive evidences available in the case of Mrs. N.R. Sponge P. Lid reported as 2015(229) P. (1462) in Delicities also held that when prescribe case of probability was spainst. (New Appellant, pleading of no statements recorded from buyers no excess electricity consumption found, no law materials purchase found the excess of economy consumption found, no law
- 9. In view of the above facts if find that the contentions raised by the appellants are at no help to their and the Department has additional sufficient oral and documentary complorative exidences to commistate that the Appellants worm angaged in distriction ramoval or the mishbell goods. It morefore find that the confineation of demand of Central Expise doly of Rs 33,90,5736 by the lower acquireshing authority is seriest, local and proper
- 5-1 in its natural consequence that the confirmed demand is required to be belong with interest, at eppticable rate under Section 100A of the Abi and I. Berntom, uposts the inspugned order is payment of its erest size.

- 10 I find that this is a case of clandestine clearances of the goods and honce, the lamp igner order has encoding modes it can stay equal to duty of Rs.33,50,573/-j under Section 11AC(1) of the Action Appellant No. 1 with option to pay included penalty as participations of Section 11AC option Act.
- 10.1 Appellant No. 7.00 error of Appellant No. 1) has by tended that the lower adjudicating advantas has failed to establish as to now be has abased the so called evasion of Central Excise duty and thus wrangly identised ponally on him linger. Rule 28(1) of the Rules if fine that the facts of this case very clearly establish that he was the lary pareon of Appellant No.: and was responsible for dandestine removal of the finished goods regrufactured by Appellant No.1. He is director. was looking after artiful working of the tint, holiding sales and purchases of Appetant No. 1 and her concernce surser in various inegular activities related to the excitable intrahed goods including manufacture, alonge, removal, transportation, salling etc. of such goods, which he know and hart reason to believe that they were imple to compression, index the Act and the rules made , mercurater. Lacking to the involvement of Appellant No. 2 in the case and gravity. mercol, if first that imposition of penalty on this poces state 25(1) of the Rules is condct indoeser. the guarant of senalty imposed upon him is very high and A. Parago paoria le poi reduced fo Rs 6 lakbs in the interest cajustico.
 - 10.2. As for as penalty upon Appellant No. 3 is sendemed in its contended that his role was finited as link person and he was not concerned with goods and thermare, panaty is not imposable upon him. I find that the above correction is not correct as the way the key person and had been dealing with the gracks on Lobe (of Appellant No.1 (without page) of CE invoices and scholies the same without solver of inveices and callbout payment of CF duty Incominsting decembing calablesting clandastine alearances of the Shished goods were also found from the aremises or Appellant No. 3 ouring search proceedings. The details of clandeshing transació on a recomina in in a discynomal coka contamed details of the goods, fracc not loach payments, etc. Thus, his role is elaborately discussed in the imagined order and in fact, inquiry has originated based on the cocuments recovered from his premises and therefore, he cannot now clear that his role was limited as a link corson between the buyers and the selfer. I and that his role was very crucial in the whole quiecte of planeesing removal at goods. I hereby, I find that penalty under Rule 25(1) of the Rule¢ has been conectly imposed upon him by the lower adiadicating authority. If owever, the quantum of partially is very high and needs to

Page 15 of 19



up reduced to Rs. A takes to meeting, maresting jistige.

- 11 In view of above, Luphold for Impligned state in respect of Appellar. No.1 sur-mature possity imposed on Appellant No.2 & Appellant No.2 to ReiS eight each in the case.
- १९७८ । अपीलकत्तामा दक्का दर्ज की शहे अपोर्ट का विष्कार उपरांतर असेके से किया जाता है ।
- 11.1 the appares field by the Appellon's stand disposed of in above forms.



क्ष्मिक (अपीक्ष) (कुमार समीह) भागम्स (अपीक्ष)

<u>Ву Г. Г</u>.А.О.,

1

Shri Mul Bansel, Director, Mis Bansal Cashing Pilitti, Pior Ne. 90. Village: Vadia Talukai Sinor

Dist: Bhavancar

| | Shii idimanshe Nancla Jagan | 38, Mha: Complex | Ao th Floor | Neal Sahka i Hat | Waghawasi Road, ्श्री अन्तुल बस्तल भिरंतरक, सेमार्स वस्तल कासिश्या काली न्हीर कार्य, योव कहिंचा अलुक भोहार जिला कारास्तर

नेसर्क हिमांश नंद्रज्ञान साथ हैं १८ , विहाद कीम नेक्स जंबी फवीर सहकारी है। का दीन वाधताचा दीव आल्लाक

Copy to:-

Новугады.

- 1) The Chief Commissioner, GST & Control Escale Annie Jajud Zone Ahmedapad für Leikind infermation
- Dia Commissioner OST & Cerora Lixobe, Bhavnagar Caminissionarate Bhavnagar
- ାଓ) , Albe Assilatant Comuniss unen, GST & Control Extrac Greenen-T, Bhavhagan କରି (Guard File)
 - No. 92/228/ByR02017.
- d) F.No.W2/349/37/1-21/17.

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