

ंभ पुरति (भर्षात्रा) का कार्याक्रम, केन्द्रीय चटलु एवं शेमा कर और जामाद भएकः। OVERTICAL COMMISSIONER (APPEALS), COMPRAINS FAIRACISE.

## व्यक्ति तस, जी गरा हो उदया ( री 116.1. GST Blasses, रस कोल दिन रोज - Hara Course Hing Ross.



<u> शतकोट व्यक्त</u>ास्त्र – ७५८ म १ Take Box Me. 1641 – 21774\*275111142. Limith cer<u>oppeds into tatareatirea</u>n

रामिस्टर्स ट्राफ **ए**. ह<u>ो. प्</u>य<u>ार</u> :

т, अमेरिक र जिल्लामा अवस्थार Append J. Little No. VU/12/DUS/RVR/201V स्व आधार राष्ट्र C-3.0 mil. DAMESTING 6

 $R_{\rm eff} \approx 1$ Date 09/01/2007

ल्पीकः अदेशः प्रकास समितनस्य स्ट्राह्म हरू हरू हरू।

# BH<u>V-ENC1</u>[\$-900-APT-082-2018-19

भारते अत् सञ्जाक है

09.06.2019

कर्त करना की तसका है।

14.000.2019

Cabour Cinden.

Date of success

Pursual by Shui Coul Buth. Additional Director General (Antik), Ahmedabad Zonal Tuit, Alumoria bod.

भोते हुए ना प्रोप्तर प्राप्तर को प्राप्त है । कि एक एक क्षेत्रर का उन्हें कोई अधिक उन्हार सुर २५७२५५ एवं क्षेत्र है है के १६,३५ एक है । एक अभा में जा जीने जार हमार महानीहरूक औदित अन्न , यह दोन्छ।  $q^2$ द को  $56\pi$  3.365। । १५७१ की पार्क्स निर्देश कृतक हुन्छ। प्रोक्किक १९१५ का दाय ३५ का अंतरीत दक्षे हैं। यह प्रधानी के प्रदर्श में आदेश मार्का एको है हुईख्य में अनीत बॉधावरी है हम में कियुन्त ik II dell (...

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कपर अभिनेत्रको सम्बन्ध सम्बन्धि सम्बन्धकार सम्बन्धक राम्यका, केन्द्रीय उटन च पुरस्क समाकार सक्तर्य र जा भारता समामान्यम् । इन्या राम्यक्षितिस्य कार्य भूति अर्थन से मुलिस्य र 4:

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क्षेत्री<mark>सन्तर्भी के असीमणी को मार्ग</mark>ा के जाता (Waste & Address of the Appelloans & Resposite to t

1.M/s M.M. (Medati, 301/A, Aarha Compess, Княх Кака Ситрых, Zanzase) Road, Junegodic - 262 001.

न्या अन्द्रशहर्मन्तुः है । अधिन कोह क्वाकित निम्न्द्रहीधित तरिके म उन्दूर्यस पार्धान्यति । पार्धनन्तर की मसक्ष a i त रायर अर सारल है"

And the magnitude by the Contract-Spread may be an appeal to the approximate authority in the source flag way.

हामा शुक्त कर्न्युंच प्रत्यह शुक्त १४ सेचयर पर्यापीय सामाधिकत्य के अपि अपीत, केन्द्रेच (१४ कि शुक्ता प्राथितिक सुरम्म सि शास १५ के अनियन एवं जिल्लाक १९८२ में स्थापीन स्थापीन स्थापीन स्थापी Ii≟"

Fig. 60° No. 30° per all'Avel (f. 16.). Appeal to Contours, Empre 5, Permoe Las Appela in Pathone Innocentius Lot. 305 of CEA. 1944. In term in Section Biological Promoc. Act. 2007. La appeal hebrar

क्योंकरमा पुरुष प्रमान के उपयोगित **मर्श मान**ा सीना शतक, क्याहीस १६९॥६०। १७क जो साज्य के निर्मेश स्थादाकिताला को दिश्य पेता देसने क्योंकर हो । ११४, १८ ५४ ।, जो दिल्ही के जिल्ही स्वित्त हैं The greetal beams of the stame, to size & foreign flux 655555. Trepunal of Wast I look bir के to a filter it Got Defail is all more well strop to maxilication and substant

 $\omega_{i}(\omega_{i})$  ,  $\psi_{i}(\omega_{i})$  ) कराए एए अयोज के उत्पन्न श्राप्त (१६) अधीलं भीता भूतक, वैकांट द्वार भूतक जे हत्त्वन अर्थात्व अर्थात्व (१५) कि के अधील अर्थात्व (१५) कि निर्माण कि निर्माण अर्थात्व (१५) कि निर्माण अर्थात्

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The appeal to the Appellate Table and shall be filled a recommender of the form there is an account of the form the form of the contribution of the filles of the filles

The applian order with Lemmon 11 of Leasures 6) or the Junance Son, fixed, to the Appellate Colored Shuff to Equi in practicipations in Four St. 5 as premaited and the Rule 5(4) of the former fixed by the Leasure former fixed by the Leasure former fixed by the section of appears for the control entire former former for a property of appears for the control of appears for the control of the first former fo

ित अमेरिकेनम, 1995 की धारा 89 की उपार पानी 12) का (25) के लंतर्गत वर्त का गर्क ना कि स्थाप के लिए मेर्न के नियम नियमक ही, 1994, के लिएम 5(2) एक १९७५ के जान मिन्सिक प्रधार असे के या प्राप्तिकों के उन्होंने हुए अध्यक्त वैक्रोंच क्यार शुक्त मध्या अद्भुत (प्रयोग), रेक्सर क्यार श्रुम हवार विकासित की विदेशी कारणा कर प्राप्त के बार एक करियों के लेकिन हो राजा है। उस एक राज्य के किया के हुए के उन्हों के प्राप्त के प्रमुख है। इसका कर प्राप्त के बार एक किया के लेकिन हो राजा है। उस किया के स्वर्ण के हुए कि उन्हों के प्राप्त के प्रमुख है के हो। उत्पाद शुक्को सारकार को उसीनों न बनामांनिकरण को अर्थ दक्त करने का निर्देश देने जन अर्थरों की এর গি এম শ্রিকের সেই ইবৌ । /

The appear under 8.5 switching [2] and (36] or the korbon 60. In Johanne 2ct 1884, shall be willed in the 3.7 flux programmes and in 8.00, % PJ241 at the fermion tax forces, 1983 and 8.3. the accompanied by a copy production of Computationer Central Lange of Commissioner. Central Brows [Appeals] that be within about the a certain flux population of the order about the description of Cambridge Commissioner (which is a central Commissioner Central Commissioner Central Commissioner (which is a central Commissioner Central Commissioner Central Commissioner Central Commissioner (which is a central Ce

र्यामा सरका, नार्वार प्रपाद प्रधन एवं सन्तर । मंत्रीर मणिकारम (१८८८) नः गरि १५४८) व जारते स्व जिल्लास उत्तरक पूरुक आणिकार । प्राप्त की कार १९६० के लंकनेत, जो की रिक्स राजिसिंग , १८९४ नी पार १३ क केन मेंन क्षेत्रपान पढ़ था। लागू पैरे क्ष्य है, इस आणि के पानि अधीरों के विकास पान नहीं के करने कार उत्साद सरमाधिनका पर, पाप में 10 विविधा ही थि , जन साम एवं सुर्वाण क्षित्रदेश है जा मानीना, उन्हें किहा पूर्णिया विवर्धात है, कर दुनमान किया कथा पहले कि इस विवर्ध के अनेवेस जात कि कम समर्थ अपनित देव के दूर मबाद करण सा तं भी राज्य हा ।

केन्द्रीय उत्तर व पुत्र मुख्यों सा कर के भी भी गाम मिन्न मुख्य मुख्या से भिर्मा स<mark>मस्य है।</mark>

ਮਹਾ। ਹੈ ਤੇ ਭੇਗਰੇਟ ਹਨ।

हुंगदेव तथा कुंगली गई राज्य साथ

ैनक्ट प्राप्त भिद्रमत् हो का भिद्रमा है के प्राप्त के। द्वार स्वयह

मध्ये क्षा कि इस धन के उन्हों ने विस्तित है । 21 अधिनियार 2014 के अकेर के को किस धन और भारिक के के करके दिख्य प्रधान स्थानक होती हुए अरोल को लागू बही होते।

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- i() দক্ষা সুক্ষাৰ কা পুন্ধাৰ্থ স্থাওল : Bereisian application to Covernment of India: আ এটাৰ কা দ্বালি বিশ্ব কৰিব কৰিবলৈ সামানিক সমানিক কৰিবলৈ সামানিক স্থানিক প্ৰতিনিক্ষা, 1994 কা আৰু 35BR ই সংখ্যাকিক কা কাশ্যাক এটা বিশ্ব সামানিক কৰিবলৈ সংগ্ৰহ প্ৰায়ালা প্ৰায়েশ ইকট্ টিলো উন্নত বাৰ্থক বিশ্ব কৰা নামানিক বিশ্ব প্ৰভাৱ কৰিবলৈ এটা বিশ্ব কি উচ্চা 1996 এই বিশ্ব কাৰ্য কৰিবলৈ কৰিবলৈ কৰিবলৈ কি প্ৰায়েশ ই সম্ভাৱ কৰিবলৈ কৰিবলৈ আৰু সিল্লোক স্থানিক কি স্থানিক স্থানিক কৰিবলৈ কৰিবলৈ এই বিশ্ব কৰিবলৈ ক
- ं पड़िता के नित्ते तकसात के प्राप्त में, यह प्राप्तात करने शास को किसी काइतात से पहुँच को कारणाह के किया मा किसी जैनेन क्षणाह के अपित किसी एक किया पहुँच होई से किसी का का को और है। एवं के सुकसान स्थान को से या स्टार्क में मान के प्रस्कारण में हीतन, किसी का खें के विकेशी किस कर के प्राप्त के सुकसान के प्राप्त में है In Cose, में प्राप्त के अपने एकों एकों से किसी का कर पर का Transal where the several cose, or
- In Class of the Boar of good it of and the boarded have the interest from a recting this pearst doze or or any first accompletions were the second dozened the converse processing of the symptom a worshouse or accompletion in a flattery or had want for all
- (iii) प्राप्त के अबद निर्मा पुरस्त का भीत को लियोग पर को लाग के विश्वितीय में प्रकृति जाया आग पर असे नहीं केन्द्रीय उत्पाद सुरक के पुत्र (प्रिटें) के पान में भी भी भी नार, की साहब किही राष्ट्री या होता की प्रमान की पर्मा है। प्राप्त की petition of duty of exclusion special capacital to any modern or for dark out side in an account of making it modern out to some superficient or environment of capacital and capacital and account of capacital and capacital and capacital account of capacital accou
- 1001 कोई उत्तर एउन के रोगलन कि सिना सारा के राक्ष्य रोधावार प्रकार की बात में कोई किस गया है। ह United to Compare the Control of the Control of September 1 (September 1)

- (2) शिंद कुल उन्देश में एक एक्ट्रिया का सामार्थिक है तो प्रत्यता मूल प्रतिकाय के दिन भाषा का मुनतान , इपर्यत्य के से से बेचन काना माहिती हुन उने के हुन्ते हुए ती है जिस्सा पेते नाथ से बच्ची है जिए प्रतिक्रियान अपिति मिलाईकी का एक अपिति किया पेते नाथ है जिस प्रतिक्रियान अपिति के समार्थिक का एक अपिति किया का है जिए प्रतिक्रिया के प्रतिक्रिया का प्रतिक्रिय का प्
- ়িও নাম্যারিটিশিয়ে মান্তাক্ষ্য প্রকল্প রেশিনিশিয়া, 1976 কা নামানুষ্ঠান টিয়া আনহাধ্যক আইপ নান কোনত ভাইদ জী চাইশিয়ে কিনিটিন 5.00 নির্মিত স্থানালয় প্রকল্প টেকিং ডিব সুনিন টেটিশিয় One opposition on the HT of the core may be, and the amount of the win client by the Denth Analysis, 1975, as anyone of the Denth Analysis, 1975, as anyone of
- III ਦੀਆਂ ਜਨਨ, ਬੇਲਦੀਕ ਨਰ ਦੇ ਪ੍ਰਕਾਰ ਦਾ ਬੈਂ ਬੰਬਰ ਜ਼ਾਮੋਨੀਕ ਜਾਂ ਚਾਖਿਲਾਕ (ਸਾਕੇ ਸਿਥਿੰਸ ਸਿੰਘ ਸੰਬਰਾਂ), 1952 ਜਾਂ ਵਿੱਚਿਆ ਦਾ ਜ਼ਜ਼ੀ ਬੰਗਜ਼ੇਸ਼ ਮਾਜ਼ੀ ਜਥੇ ਸੰਬੰਜਸ਼ਿਤ ਕਾਰੀ ਸਾਤ ਜ਼ਿੰਦਸੀ ਸੀ ਉਕ ਸੀ ਦਵਾਜ਼ ਜਾਂ ਇਹ ਇਹ ਜ਼ਿੰਦ ਤੋਂ ਸਾਹਿਤ ਹੈ। ਜਾਂ ਸਿੰਘ ਤੋਂ ਤੋਂ ਬੰਗਜ਼ੇਸ਼ਦ ਤੋਂ ਗੱਲ ਸਾਹਿਤ ਜਾਂ ਦੇਵ ਜਾਂ ਦੇਵ ਨਾਲਵਾਜ਼ਾਦ ਸਭਕਾਰਜ਼ਾਨ ਗਿਆ ਹੈ। ਜਾਂ ਦੇ ਸ਼ਹਿਤ ਸ਼ਹਿਤ ਨਾਲਸ਼ਾਂ ਦੇ ਜ਼ਿੰਦਸ਼ ਪੰਜਾਬ ਨਾਲ, ਵੈਕਰੰਕ ਵਜ਼ਦੇ ਤੇਵ ਜੇਵਲ ਨੇਤਰਵੀਜ਼ਰ ਵਿਚਾਰ ਸਿੰਘ ਤਰੋਵਿਆ ਜਿਵਲ 1950
- টে) ত্রুনে প্রতিষ্ঠিত মুখ্যালয় যে প্রায়ে স্থানিত কর্ম হা নামটো কাম্পন্ত কিংতে এই দ্বীলনা আন্দিনী ও কিংত মুখ্যালয় ডিন্সাল বৰ্ণপুত্র ভ্রুলনার জ্যালয় কি ইয়া কেন্ট্রিল ট কল প্রতিষ্ঠিত সাল্ভিক্তি নামটিটো নামটিটো এই মুখ্যালয় ইয়াক এই সংগ্রুত ক্ষেত্র ক্ষাত্র স্থানিত বিশ্বীক্ষা মুদ্ধালয়ৰ সংগ্রুত সংগ্রুত সাল্ভিক্তি কিংলা মুখ্যালয়েই স্থানিত ক্ষাত্র স্থানিত ক্ষাত্র স্থানিত ক্ষাত্র

#### ORDER IN APPEAL

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This possed, undeed has been filled by H.: Assistant Communication, Service TS's Tools on Blasmagur (necessation retained to as the appellant), curbonized by the Principal Communicationer, Central Region & Service Tax, Educational Against Communication of Service Tax Division. Binarragal (he simply referred to as the adjunctanting stills if y) in the case of refund claim filled by Mrs. K. M. Odedona. (3) /A. Astha Company, Zeulsan. Road, Juriages's boundaries referred to as the respondent.

Brit by stated, the respondent field a claim of refund at Rs. 15,88,448/4 lab is included amount of interest of Rs. 15,882/1) under seemed 102 of the for a use Act. 1994 on a resultation of construction related services provided by the include of the value of several content appertments. The services provided by the respondent to validate gos and not appertment were exampted side notification. No. 9,90019 ST and 20,0008012 of 01 07 3015, cowever, the said examption was withdrawn wide notification. No. 6,900 0-80 dated 01 05,2015. Again side notification So. 6,2016 ST 0 0,000000, examption was restrict. With section 102 of the Finance Act. 1994 the examption was granted petrosport vely and to date point durant 01.04,2015 to 29,02,2016, refurn mechanish was provabled. The refund claim was decided by the adjudgeding authority and OEO No. Ry76/2016 debat 09 01 0017 same soring refund senerating to Rs. 10,86, To/ to the respondent. Seng aggreeous, the special build have find the present appeal.

## 5. If The according these filed the accord on the fallowing grounds:

The problem is the refund of the amount of shader the poid by a service given donor that which is followed in the same been strengthed as a few the branches that the same construction so which has been entered into before 01.3-3.001 as no on which statute duty, if required, has been guid on or before 01.3-3.001 s. In the other in probabilities is that application for the claim of refund of service tax about these more made within the portfol of six amounts from the date on which the France Both 2016 contact a some of the President of India. From scruding of the documents authorities by the magnitude of India. From scruding of the documents authorities by the magnitude of all only of any northed on the other into by many with by service receiver. In describe of copy of any northed on the other into the copy of



If I can row, it cannot be verified and ascendined that the respondent had adviabled the said construction services to fite government or a loss. All only of a governmental authority under a contract which has been entered into second 01.03.0015 and on which steep duty has been paid by them on an actuary 01.03.0015. This is a print; workfilm, under sub-section (.) of section 100 of North Arcs. Act, 1994, he says an of referred.

- Without we dony of Ear contract(s), the adjudicating authority has nell that from broke collective ear base and been passed on its any other peaces by the respectival. In this regard, the facts can be associated only by senting (wild be only of the contract and the itells/decises issued by them in expect of ears parainher to the said only to the facts by them in expect of ears parainher to the said only to the fact by the fact of suppermentations in the respect of M/s. Melabel below the fact Vs. Union of them, reported in 1997 (29) and 200 (800), of 200 of earliery is grantable only when it is established that an two of tac/deta base not been passed on to others. The decision of unjust conclusion is a just and solutory document on parson can seek to collection (exchanged). Earlierds.
- The respondent has blaimed trained of a toroid announcing to Re-514  $10q^2 e^2/\epsilon$  poid by thems on the nonconflict service tax which was the poid in tame by two cools the adjudgering automaty has same and the same, by relying on the provisions of section 1,02 of the Minanco-Art, 1991. As provided the an sub-section (2) of section (00) of the Finance Act, 1991, refer to all two quality of all such service ran which Just becaudeflected but which want i not Laye been so delicated had sub-section (a) been in force at at the anglesial time. The term Thirteet' is the whole to be found in the about 100, and It is soulist. low that II is a gooding, of any term in a profine granuity become beunderstood with reference to even similar torus used in the different toxing statute. It is essentially to or to passed in the context it is used in the very section where the term is tooled to be each process. Being so, even while understanding the term immed at interest in the souther IID of the Commal Excise Act, 1911, it commot as made applicable with refriction to the refund of service can allowed in terms of socian 102 of his Singuis Asi, 1994 which is a different entictment. Once section 1933, his manify appoints from the ordand or sensite acts has to be made, there is no beage to be itend that the refund of interest is also specified under the said section. The question d'itelique cambrigation y whom the provisions afectating of food



chearly episose of following the interest, which is absent to such an 192 of the filter of the open for, 1994. Moreover, respondent has part in both and the test as provision makes see that action such there is no provision makes see that the of the virtue of the Art. 1994 to refine the

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- It is therefore no local fract ST 4 renorms filed by the reason equility (the relevant period that they have not ized Contrar emait to the symbol of sortive test at the relevant time. The adjudicating curbonly has the considered this fact while deciding the define eleien files by the respondent as to whether Cental cradit was allowed to the respondent while whole of a continuous provide of a continuous form which return application as a factor field by their Thirs, the bas laited to verify one ascentain the foors from recents up. 8743 receives with other before passing related orders.
- [9] In view of the above, the impugned order passed by the adjudicating authority supplicating refund of Rs. 15.88.4437- under section 11.4 of the Control Excise Acq. 1994 as made applicable to the service for matters wide section 60 of the Pinance Act. 1994, is not oraport concerted and logs by a latency follow by market by an axide.
- 4 Hearing in the mother was held an 15005-2005, which was offenced by shored as Mehra, Consultant of the respondent the relicatived the submissions of cross objection and filed the exiditional written submission for consideration. Nobody properred from substitute side
- $S = \{(x,y), x \in S \text{ as a spection on a contributed with mission filled by the despondents are subtracted that$ 
  - They provided list of construction services provided by their chains relevant period and continued had all the states of contracts were government angle mations/local combacity and than from dates of notifical and work order, it is clear that the contracts were unlessed into prior of \$1.00.2015. There is no proposal in the SCN to damy defined be dring non-submission of copy of contrast. Threaders, not appeal that by the appealant asking to never sall directors control to string, the assistance of may of contrast, has traveled beyond the scape of such, it is settled low that grounds of unpeal cannot go beyond scope of SCN. They reflect upon the case we of Bajaj Annother. As 1001—2004s [1011]—101—03 [1804.) and COK as ST. Nagger, Vs., abolitate they first light EET 40 [Born].



- (ii) Regarding outputs curtichment, it is contended that the agreement are not so to come above work were all issued prior to CLCZ 2014, when service was exemined. The order passed by the adjudicating authority is not without any again. It is issued by C. H. Thatieshwer & Co., (i) without accountant, wherein, it is about that not up sarvier tax is received by the constant, wherein, it receives of epigen the. This conditions is incorrect on foliar. They, the ground of appeal is several the scope of SCR. There is no long of an incorrect the foliar above to as was passed on to any other passed by the dismount. It is also not stages that the exitting to a suppeal is on attempt to extract a content discount actually making any a logation that service tax was passed to be a suppeal is on attempt to extract a content without actually making any a logation that service tax was passed to be on without actually making any a logation that service tax was passed to be or any other person by the also ment, which is not permandic of
- išĿi Regarding tables of interest paid, it is central all that as per subspecient ( ) of abother 163, no service are shall be try of the subjected. nuclus, fix period completetiq, from 51.04.2015 and enoughwith  $\sim$  :  $\mathbb{C}^{n+1}: \mathcal{X}_{0}$  of Permutty, 2016 (bottomasses inclusive), in tespect of specially the Airle services provided to the vacquent, local pathoning or a Governments Lauthorics. Thus, on per soft-softion (2), service raw bested on to testo: For this specified service most be reflected as 🖸 there was no lawy during the period  $0.1.6312646_1 \ \rm{to}$  at no  $3016_1$ luasumoù as when there is a mandato to refund the service ray of the promise that there was the copy of automatically follows that simple stronget of penal nature [as do y short, ed in appeal, collected. alongwith survivoltax will have to be remoded on all paged, When there to not evy to be but our of the, no amount was regional to an collected. in the first place and it there was provided believed. The Kammilwest required to be retarmed an observed impostance, as rightly done by 14. Assistant Commissioner.
- Begaching Constitution in its contended that as you kinw of my about 19th social 162 is a different enactment and unless specified a section 1900, not a not provision can be read into it. There is no reference to 000 variously a such as 100. Transford, the appellant connect to permitte to supper or note and mat integer, or by a specified in section 102 on for be returned or returned but Central could be about a fixed with the section 102, note to made a protect for questioning the procedure of section 102 of Brance Act, 1864, 21 on, a not relevant to Content of the SON (query).

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metro) and the other, appeal bas travelled type of the scope of genfollow thems.]

 It was carefully gone through the set are carter, grounds of appear are: For the times raised by prepondent in cross objection as well as  $ilde{ ilde{q}}_{0}$  and  $ilde{ ilde{q}}_{0}$ becoming the first the cospositional based extered error agreements yet of same which Government/ should are purify/Government, authority to provide wants are detailed at para-13 of the time goes under The services recyided to the unventioner in the at an its fire constitution, work with proviously expressed wide entry 12(c) and (c) of Mega Poen prior Noticenter No. 25/2019 (1864) 20.06.2012, applicable from 0.107.2012 under the new larg of negative 1 st based survivo that However, those exemption entries of Macfigarion No. 25/2012/SF were deleted wide the Pinance Act, 2015 and accordingly a Notification No. 05/2015-87 dated 01.03.2015 was issued for withdrawed of the said excraption. Hence, with effect from 1st April 2015, serveres resolded to the Againment, a trace Authority or a Cost official Authority in reservoid constraint on, precion, commissioning limitalist on, completion, turing cot, regain, maintenance, centwariou on alteration of a civil supursuse or any original. words meant predominantly for use other from for commerce, industries, or erro other business or profession and to a structure mean, ye round only the assumed to the state of the sta Accordingly, Highrespy ideal parties wice fazion buls to sec from 0.0502010 for alpgar nontigens, secretes a mylded to salucts Sevenment Departments under the parameters also must be have been enreced into with them point to itself Acronic 2005. Ruch service rashis aggregating to Rs. 15,73,590/- on Alls raised during the period from 01.04.2035 to 29.02.0016 and inherest strictly ling to Re-17.850% and a dayon is symmetric, such section for the coose medium dcontracts (retail refund claim Rs. 16.68.4487 ). Through the Finance Act. 2016, the comprisor in respect of swin constitution related services provided to the Government etc. Les rech restored to Asservinely, Notification No. 5/2016-5T dang milingupakan lalah nasi badi kemendi parincalian 25/2012 SP dang 20,000,000 so as to insect entry 12A, to exempt above coared services in respect of which contract has been entered into prior to Tel March, 2015. Figurescoping resignation is such survivals, provided Andreits as sorthy the asserted studing the period from 0.000.2005 to 26.02.2005 (both days mehrs we) to the Government, Local Authority, Covernmental Authority etc., on which the so vice that head been seen by the expression expedience in a withdrawal of the exemption entry of Norification 25/2012 ST 150 which easing an exclusing that period, a new provision -Sertion 102 has been inserted through the





Physics Act, 2018, to grant the refund of the said service sax paid on such services during that period. Thesefore, the respondent claimed refund of Rs. 13,88,448/- gold by the minure sequel of not services a covided to the Powern ment during the Potton and one and exally introduced Section 109 but a bituance Act, 1994, the relevant position thereto is reproduced on under the better accordingly of the issues.

- (1) Potential Success in registers in order and the result of Addition rectanglish in a subject of collected curving that period over more may three the 03.04.2016 and analog artifact the 80.02.2016, in respect of terrephile recruitees provided to the Galerianist, in himself and having or a Conservation and analoging by many of construction, provided, incrementation, and photomy filters and required and analogical provided regular construction, and analogical provided regular conference, removalizing alternation of
  - (a) a stack structure or any other original corks susant predomitizatly for asc attact that for continuous, balantry or any other business or profession;
  - $\langle h \rangle$  as altrocations meanst presidential and  $(a_1,b_2)$  for also con-
    - (i) an educational establishment;
    - $\rho(t)$  is also that the scale transfer of the
    - mijeru ert er enmusikasisasisakunda.
  - (a) a modeler had complete predeminately research in explanation of the asset of fixed anaphymes an other pures or synenglest in Explanation 1 or charactified; of scenes COM or has an Mark
  - notes a contract entered into higher the 02.08.2015 and on which example straight into a specifically a some approximation in a base point lagion that date,
- 6. Majored small be made of all short service reviewhere has been uniformed our middle person on those tweet appropriately forestable exchanges seen in factor of all the outcome thoses.

Reepápig the said provisions of Section 100; bid in mind, i proceed to decide the appeal as under.

The first that the object of its model solving as pred in respect of service provided to the Government under the specific rategories i.e. construction, eventual to the Government under the specific rategories i.e. construction, eventual to the Government under the specific rategories, i.e. construction, according solving, installation, completion, fitting but, repair, multitenance, removation or alternatin for the purpose specified in the provisions. There is also no dispute four the nature of services provided by the respecialist is construction related services to the Government and bord Automatic ing the RY 2013-16 km. The same services were exempted all Stuffschild (i.e., upon Fr 13014.14) as per entry No. Ix of Magn. Exemption Stuffschild (i.e., upon Fr 13014.14) as per entry No. Ix of Magn. Exemption Service Tex of Ra. 15,72,591/- along with induces, of Ra. 15,850/- or obsyst payment of service as Theorems, the appellant had become as well as as the grounds of unjust enrichment. The appellant had we remembly contended as intervalia, mantioned at Pars-Sickers Tile appellant had become and decreased as intervalia, mantioned at Pars-Sickers Tile cospected.



has a soft or free reason collision when a id, an the grounds as denoted at Poist's above. Thus, I same the discipling before the is to because whether the reference allowed by the Ad, bireding Authority under the original one or is legally sustainable or not. Now, I take the similar issue on which appellant as if which decision.

Our the contention that the respondent has not submitted rappy of q, qcontract as extendible adequaced at Para-Spirabove, I find that the refunding in or quies for was find always in the continuous including "Copies of West declars ns proof of agrees of areal, and greek material are refers 91.93.2915% as incollabed. all para-Y of the manage as they at This lead is not also paid the the appellance or exercise. Fit there as meationed of parael of the imprepred order, the sajid claim with documents were sept to the Longe Officer for verification and the Venification Report fored  $M_{\odot}$  (1.2918 submittee, also do not point out this issue of non submission of contracts and the claim was varified on the basis of documents accoming a with the main rate of this, no appealed greaty was to sold to the way wellow now appeal. Protest, on mentioned at para word the impugated  $\sigma_{\rm c} \sim \sigma_{\rm c}$  I wish this that subsequently when the query membraceted  $25.1^{\circ}.20^{\circ}.5^{\circ}$ walk issued to the respondent these controlls/digeoments dotied were not aplys, for Thus, from these facts, it clearly transpires that the Adjudicating Ambiguey after relying on the work orders suc R.A. billions: conn. It wo negation goal, the program, but has a producted that construction is emices to the Government an overtical in respect of the posttroots/ogsetments educted before 0:.03.2015. Trans. without asking for the actual Contracts done the respendent, the Adjudancing Authority had satisfied Limself Hat the can differ visit for construct entered into before the 01.03-2015 of H  $\circ$  Sub-Sub-on (1) of  $\mathcal{E}(\mathcal{S})$  in 102 and  $\pm s \pm t$  (green light body in the case of space. Moreover, south conditions to there in the said assertion. 32 third just no ensure that the benefits are available in respect of those contracts which ere entered belong 01.08.2015 only. The Adjulithings Applically on the explicit of work british and the espis of the 90 theory. raps, and the Range Other has contend bimbelf and found that the said community were notunity entered before 03.00.3015 and thus, under the circumstances. I do not but any infinalty in the impagned order. Further, I also noch hat it groot become to tint of the appellant in at the conclusion in a refered growned were entered often 00.000,2005 and no such exidences of any contradiction facts have been placed before me by the appellant. Parther, this with two and solution for  $\|\cdot\|$  High straing latter dates [25.11.2016] is a  $\omega_0^2 \sim 0.17$ proposident. Publiter, a siso fixid that there is neither any specific requirement. of a constant of the said Section 102 init that the offend claim should invariably

he accent painted by the copies of the contracts necessary disculars discussions is most by the department for the same. Hence, when the condition that contracts around be entered prior to 0.1 0.0.2016, is fulfilled which had been found to be satisfied by the Adjudynamy Authority on the basis of editor descences was some express. Using the food looke to the specifical field of a report of the specifical field of a report of an expression of the specifical field.

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is is further postericed by the appellant that it sheeper of positized./Lessesment. the aspect of unmost enrichment cannot be perified and thurshold the administrag authority has exect in helding that there is no unjust COMPLETED TO The website outly contended that refund at tax is grantable only when it is established that also not becomes not been passed on the others as the Doctrine of Unjubit domain north talls just and secretary god, i.g., for this acquird. I find that the adjusticating authority has not a mathroped is no vioyable contributed in the case. This finding to based on certificate dated 17.11.201 of is some by  $C_{ij}^{-1}(0,T)$  . The algebraic St. Co., Chaptered Accountains is have gone to rough find that the wordings used in the certificate is "This is to the warbacterists. conflictions in the markets for inducting mentions at EA , billion received from the vertical  $\epsilon$ Sold Separations of the costs of  $M_{
m C}$  M of Selectors. Lemma is and earlify that no acertice say has here puriously in below mentioned USS. Thus, the coefficient us issued on the basis of RA brits only and not on the basis of frequently opening is default short to studie report (when H KA bits also not show whereas  $H_{\rm c}$ amount and associated the date of issue of certificate, no service textures received by the respectfully a possible than three containing the same as receivably from the service recipions. The class, a horder to asserbin as to who but also burden of service tax non-book passed on to say other pursue or rol, it is expressed to expenie fenercial records of the respondent. Thus, a is to be that enough on the basis of a certificate which is issued without whisping insortal to a describ which states that "exprise that is not receiven", it commot be held from borden of so woo lengths near our possible to so year excipion, or any other person. Thus, I find that the adjudication sum on by be a consequence  $\hat{y}$ verified the aspect of unjust emicroment and the same is required to be seexamined in light of the above observations. My above views are suggested by the judgement of Hern CESTAT in the case of M/s MADITUCON LIKE PORT Marsus COMMR. OF CUS. (PREVENTIVE), MUMBAL- 2015 (020) E.L.T. 458 (Te., - Much that factors is the observed and field as under

\*5. I have samplely given through the resords and considered for submissions made on behalf of the Rosenas. The issue lies in a narrow sampless on the recent of adjust enoughness. The deviations



Commissioner, while some ming the milital, has not once who are igg. a harbar fasiokense og risky for skreit relland in savight for have been passed on an atherwise to my come seem if it is a case of refund of towards deposit, test of explant armaterial was not be proceed an Try. appeared therity the proceedings before the Chambrolous (Appeare) has submitted a Charleted Accomination certificans, which was issued on the basis of imply of economical the aspellant wherein it has been ner Offerd from the managed of reflect the element in the fortunce sheet as incompositive from the Chineconnect Hamboure, despite this entirely,  $\omega_{ij}$ the opportunit, the Commissioner Appears) has rejected the circle of the appellant on the ground that Chaptered According to certificate is not  $\sigma$ couplished endance to prove that the inactines of daty has not been uccession. It is other surpress than, all of all the Commissioner Represses. is not sufficient with the Charleney decreasing the coefficient the should figure region for interest uncommented who have no phone and other mores of amend or who to all the statement sign of the CA samples to, switch its follow to an an it is a potelod position of loss that, if the emount for which reflect is scorger for, has not been backed as an expenditure in the small and rose account and observed in the access side of the balloning wheet we receivable. It is sufficient sublimate that the incidence of duty has not ewa ci powański situ

- 6. In turn of my observables, the opposite is effected by way of normal to the Assistant Commissioner of Customs, Related Cell, Real, then Customs House, Balland Extras, Mandion-M. Assistant Commissioner significantly the backs of measures/ volumes since of the appealment and on subspection that the anomal of refund in south as recommisse, the refund shall be granted that the appealment shall be granted interest on the reduction about the completed out or partial of our measure to provide of our original collection of regions makes whall be completed out or partial of our meanth point the date of realist of this order.
- The Terrorse of the facts socialised vision has in stored a long in appropriate that this issue of the jest uniformed three after a northward long or light of my above observation as as to essential whether or nor the for dense of several Designation interest, poid an such tax had been passed on by him to any other person of solvice receivers. Purther, it is also essential to examine whether or not the test proceed that the except the test and several right of valued the Lability to the extent on the service receivers in their brokes of accounts. Hence, the notification of the except country that the Color brokes of accounts.

The above issue in light of dry above observation after giving an appear may all hearing to the reservoor. The respondent is also directed to part all includings before the Adjusticating Authority that may be called for by the Sqiadlesting Authority when the matter is besud in remaind proceedings in order to treable the Adjudicating Authority to a cride flav case direct. There is those of cuine are supported by the dry some of the floative fligh Court of Onja for to the Tax Apount Ma.276/2a.15 in the case of Court Spirit STR 723 (G.A.) and also by the drustice of the Hearth No.276/2b.15 in the case of Spirit STR 723 (G.A.) and also by the drustice of the Homble theory, when the process of Courtissioner of Court Stayles, Functive Vs. Sai Advantum Let and open by a 2012 [27] STR 45 (Crid. Morable).

Further, it is the contention of the applicant that collect of the interest in that light making as period. Section 192 of the Krisinge Act, 1964, in as much os sobjection (0) of Section-102 of the Finance Arc, 1994, provides that thefoliously of the covability of situated: Service Textwhich has been to topical  $\{P_i\}$  that the referrable charget root only be allowed if the provisions in allowing, adjustclearly specified of hot and of injuraci, which is absent in section 102 (and 1) and payoned, of interest by the post outbact was equipped not paying service for in ring. and thus, it is by nature of pents) and an oblidues not covered under Section 102. ibid. The respondent has submitted that was tiny of a longer scripe of highligh-In one law as there. Since no service ray, a this is Highlige per section (19), the second by any interest, to this regard, I have that the implicated order is passed graining to book is to view of the provisions of B-effect 11R x = a . On (i.g.) ekszása Act, 1941 ásalla elegetűszásár to szakoz aza marsan inyden Szeri ele 83 al. the Figure Act, 1994 read  $\approx 0^\circ$  Sec. on 102 of the Figure Act,  $20^\circ$  S. The crowingers of Section . It init, which only as approach provides for refund of way survive are and interest, if any, point an explicit Lety/tax. Hence, refund of occassionsaid and such service for which are when within softh, by refigur, under the  $\approx 4.80 \pm 60.137$  ibid. is also available under the said Section 109  $_{\rm B}$  at  $_{\rm BS} \approx 0.1$  $\rho$  for such and 8-odisc (11.3 of the Constrat Expise Act, 1987) as made applicable to was so m imes notified above. Section 30 of the Pinance Act, 1994, provided theremaid of secrete las usefuls who issible under the said provisions. When the iscope of admissioning related a list wind, tay on the present case on the issue of enjust carefuncial is alreaded to be exemined by Hill Anjiy Beech is Authority for which case is reprouded pools, then amor at axis accury at interest may also be takens up at 250 sentenci proceedings by the Adjotheraine sturbority in Eght of my above of society of

2. If A midth of Continues the Test appellant that the adjudicating out to dry has not considerable out the resource of these outlines. Conset great for exement of service tax one acceptioned the retains claim will and wority by wking will object by Convolt credit was allowed to the respectient while allowing benefit of example of them product of service the or not, in this regard, respondent has submitted that them is also references to Communic SCA as well as in section 102 and hence numpers may travel a lung and seem a 130N. In this append, I find that neither appellant inc. Expression That to by siral any data regarding in figure or of Convatrengi, by the responsibility to the regard, I find it at its following a subjectly has not exemined the depect than when service rax on ourput service is: exempted, whether an issective can avail Central prodition not. In my view, this candificat was required to be subflect. However, I find that nothing is: forthcoming from the impuested OlO. Super the number is being renumbed back. to the adjudicating anthonics on the issue of unjust conclument, the adjusticating authority allocate observations this issue of each issibility of medic when output service is exampled, as unlike a appellant non-respondent bosoopposited any data regarding of less fibract Conservation in by the respect to the

10. In view of the facts and discussion bearin foregoing parks, I see aside the impugned order in above turns and discussed off the appeal that by the appelluon between of concern to softmainsting and a ity

| **Βορι Ναέω** | Characteristant (Appents) | And Genet Dispetar Genetal (Audi.)

To.

- The Assistant Commissioner, CGST, Elliphagar (Formally 'Service Tix) Division. Blackagers [
- Aris, Krikana Construction Co., 208, Platinum Accade, Jayeksee Citema. Road, Halva Chowk, J. dangady.

## Cupy to:

- $T_{\rm tot}$  . The Chief Commissioner, (CGST) Ammedwhaft Zeror, Ahmedahad.
- Tita Enlarigial Commissioner: Commissioner, CGST, Ehavengar.
- The Counfissioner (Appeals) Rajiot.
- 4.7 The Assists of Colomissional (Systems), COST, Blue again
- s.<del>ž. Kraza J. K</del>raza
- 6. P.A. Fib.