

्रभावकत् (प्रतीसन्त, का कार्यक्रम, केन्द्रीय वस्त् २में सेवा कर और उत्पाद शुक्तः) OXIDIO (COMMISSIONER (APPRALS), CENTRAL CYLA PAULSI).

ਨਵਿਰੀਕ ਜ਼ੁਕੂ, ਹੀ ਕਦਾ ਨੀ ਮਤਨ + 2° ਸਮਰਦ GST Blosco.



केंद्र की में की में की इंदर्ग (Rose Charles Harp Hanta) <u> 打房事代:Kalbal - 360 0回</u>

Tele Pay No. 3251 | 3477957/31 10143 Empil: zeroppedsnojkabjejprositacur.

## <u> प्रविभन्दर्भ अपना ए. ही. द्वारा :</u>

अभाग । फाइल संगया (

Appeal / Mie No. \$2/24/FA2/BV#/ 9817 कुर हिंदू में र

U.L.O. Sc.

BEIV-POORTIS-DOOL-ADM-PV-

Lione 13/02/2017

Saline 1

006-2016-17

अर्लात भारता संख्या (Coder un Appeal Nour

## BHV-EXCUS-000-APP-089-2018-19

केदेश के दिने जे ह Juste de Onden.

i i.ds.2014

ज़री काने की नरोस अ

Date of Joans.

14.05.2018

Franching Dr. Bullde Singh, Additional Director General [Taxpayor Services], Altradebad. Tonal Unic. Abmedaixall.

लोबीमानुबन पूर्वत । अवस्थितपुरान्ते अस्तु होन्यालीत **हिलां**ल कारकाञ्चल के लाग ८६ वर्ग संविधित स्वासक प्रा १९९२-०-५१साओः दिर्मक १६-१६-१७६० के. .स्पूर्ण मे. **डॉ. याज्यार मिंतू, अ**ष्टा **महास्थितक करदाता ग्री**ता. , अहमानाचा जीतर शुनिय का विकास संवितिक । १९५६ की धार १६, वेटीय उत्तार शहर अ<mark>शितिवार</mark> १९५५ के गाउ २५ के अंतरात देखें की गई अगोरों के सन्दर्भ में अधिक माध्या करते के अधिक में अगान गाविस्तरी के दर औ િંદુન, નોનેના વચા છે,

40 person on the Burnelly Manifestor for 22/2017 P.Karker data? 17 (1.2.) 7500. urdi Basis Performance (1979) (2. Of cated 10.10.2007, Dr. Baller Singh, Adortonal Dissertan Conversi of Taxpayer Geraces, Alimodalkai Zunai Chin, Anmedantai haz Soun mapui dari asi Appellace Authority for the purjeton of passing process in respect of operate fills langer section open Countral Maximum III.—Figure 25 at the Figure 25. [1984]

्षत्र आयुक्ती संस्कृत आकान्य उपाप्तिको सहायक एमद्रमत् केन्द्रीय उत्पाद सुन्द्रश्च । कर सक्तात स्थानकार स्थानित । द्वारा कर्मको कित्र मात्र सूत्र अवस्थ संस्कृतिकार कुणंड्यक् çut अ वक्कार पराचनकार (मेर्ट) एड्डास्ट्री कुण कर्महास्थित महानित्र एक्ट्रास्ट्रीट

Commissioner, On the Renkel: Service Tox, Rapidt (Jamosga) / Cert, religin ()

ংগীৰতে <sup>বি</sup>জি **ভটিবাৰী প্ৰাংগি গৰি কলা / No**ch, কৈ Adelice a of the epipellan**ts ও Respondent** ভ

М/к Мая Мварчисі Coite Gujitot P. Itd., Survey No. 198/Village : Malpur, Mamaa Dhannagar,

इस अपने साथ में कर के व्यक्तिया नर्केड़ क्यनिया विकासितिक स्वतिमा <mark>में जगनुमन आर्थ</mark> कार्य कार्य कर में स्वतिहास ্রতীত আধ্যানের ভালনা **(**ছেল

And person applied in this Didon in eights f was appear to the promptions anthonly in the colorung way.

JAN.

वर्गीकरण कुराकत से प्रकानियन प्राप्ती जानक शिला शुक्क, विश्वविध उत्पादक प्रदेक एक वासका वर्षाती । न्या मांगीकरण जो भारीय गोळ नेश्वर प्राप्तित तार के प्राप्ति नहें श्वरती, का की दिन्ती वाहिए । The special bound of Cox or a Excise 9. Service for Appella of Fill and of West Glock on 2 R.K. <sup>‡</sup>and an love Bullitica of matters relating a classic union and valuation. 1.,

प्रतानका प्रक्रिकेट पुत्र में का रामार उपीयों के अलावा अब राष्ट्री अने बे ही आपका केटी आहमार पूजा एट होडान्य अमेरीका आप दिन्य मा (शियरेन) की परितास सेवेस भीतिका मुद्दिर्शिसी हुट, रूप्यापी भटको प्रहास शहनकार ३८००मा, तरे तो सामी व्यक्तिकार

To the Wost enginesi bounds of Cluston's Rection & Samsiev. This Appellant Photogram [Fig.91,81] of 200 Fluor, Risational Blockers, Asia war All pushakoii 38,001,6 in usaso of appears of the first link membersed in page. If an above

ालत औड़ित। का किए आक्रीयन शब के राजि 5000च रमण का रिधारिश क्र्रेज़, रहन क्रांस्ट होता है.

the appear to the Appellon P linear of all her line is reproperties in form EA 3 / carrier recent length line in the state of the state of the company present to the linear linear state of Tantal Packet of the state of the st ;fij हरूर तम पुरस्तार केंद्र की उस भारत में त्रीके पाहिस गहा संबंधित अनेकीय स्वायाधिकारण की शांटा हिंधा है । स्थानस अर्थशास्त्रे औदर। के किस अर्थिक गयाक राजा 50% जात कर निर्मारिक एक्क करना वस्ता होता. ।

The abrett cracer published on the decided 20 of the Finance Act, 1981, to bis Appellate, where a final perfect of constructions of the Finance Act, 1981, to bis Appellate, where a first the perfect of the construction of the

11, हिन्द्रा आद्यिकियात । ३६८ के १५८, १८ की ४५७ एको (१५ . १ १५६) के अन्तरीत दु**ने की करों अगो**न, जैनकर जियमकार्ति, 1991, के विकास भूद) एवं १८८६ के नहार विविधि ए रे ३.८ ४ में की जो लग्गी की भूके रे ५ र मुक्ता । केराबोर । प्रधार पारक १ केरा (साराक्ता (१ धेरा), कार्योग अस्पाद राष्ट्रमा राजान **आहरा की प्रतिद**ी सर्कान बन्ने (उनमें से एक प्रति जनातिक होंगे वाहिए) अब जिथ्नत रोगेंट महारक आर्क, जिला पन करते. केंग्रहेंग जिलाइ कुल्का के कर के अर्थाहोंक का अधिकार की आविद्या रोजी करने का निर्देश की बाहे आर्का की पति भा मान्य में सुरुष्य क्षमां येगा।

The almost in decrease that in mean 1 (2A) or the section 25 the Lorance act 1544, who illor offer play the section of a 2A) or the section 25 the Lorance act 1544, who illored play is the section of the Sourier Tax Endow 1994 and 3 all is as seen which is a section of the distance of Control Bostse or Commissioner. Central Lagree Appears [one 5] who a soull be a certified map for map 4.7 In order passes for the Commissioner, a characteristic Lagree Control Control

ों । पुरुष्क, अन्दीन प्रत्याद राज्य एक रोगाकर अर्थातीय प्रार्थिक में (ग्रार्ट्स) के प्रारंत के मार्ग्य में कन्योग इ.स.च शुक्त अर्थिती प्रमाणिक में कार 35.00 के में प्रारंत की की कि विवाद विविध्यान १९८४ की प्रारंत 83 के. इ.स.च राज्य के समामान के समामान संसर्गत भी प्रस्त को भी काम् की गाउँ है, इस आदश के प्रति अभीकार पश्चिकरण में अभीक करने एकन उत्तरह कुलक्षीय पर प्रकारिक के कि के लिए (195), सब कहा एवं क्ष्मण विश्वतिहासि के क्षाकृतिया जब केवल कुरिया किंगरित है, भा भगतान विचा जात, बरात कि उन, धार के अंतर्गत जमा कि उन्त जान अमिश्रत रच साथ उस करीज दबए ए आधिक र हो।

नैनदीय द्वारा शुक्य एवं सेनारन के असरीत हमान किए गए शहर ने निमन शाक्रित हैं।

- भारा 🕕 वं के उँच देन छन्।
- केन्द्रेट उक्का को की एड्राइट काहि ψ'n
- संगर्देट कमा क्रिक्सकर्त के सिवम 8 के असलेन देन राजम

નાર્થિક કર્યું હતા. આ પાસા નામ લાકાના સિંહાના ભારા છે, જેવિયામાં ૧૧૪ ના કૃષ્ય કે પૂર્વ સિંમી માને જે ર ८ भिकारी के सब या विधार में न स्थलन आही एवं अगोल को लागू नहीं होते /

and the event law event laws are several physical Affile on **लग् नहीं होंगे**। the control Region Additional appears to be men before the CoastAff, in the CoastAff, and the Section 35 of the Section on the Section of the Section of

Fig. 1. The first section of the sec

र दे राज के किये करशान के मामले से, यह जबसान किया सात को किये करहाज हो स्थार पर के धार राज के होशा में किये में, में कारशाने के फिर कियों एक शहर पहुं है दूरर आप बहु परस्कर के दौराद, जा निजा बंदर पहुंचे के बंदरण में एक के पर करशण के होशान कियी कारशाल या किशी आर भू में नहां के नुकास के सामले के राज्य करता के स्थार के सम्बद्ध के कर कर स्थार के समझान के स्थार के स्थार के स्थार के स्थार कर स्थार

In case of any loss of rocus, where the loss abours in transit from a factory to a warshouse of to aposter total variety by a problem by the problem of problems of problems of the problems in a warshouse or problems of the problems in a factor, which was the use

(iii) इसम का लग्नर किसी राष्ट्र का इस की निर्मात कर की अस्ता के विभिन्नोंक का मन्त्रम कराई असर कर देने अई निर्मात कर का अपना कर की असे की की असी है। ते असी की किसी की किसी की किसी की की किसी है। ते पहिल्ला के case of colorise of colorise of colorise of colorise of colorise of colorise.

In case of robuse of carm of regime on graphs cases will be more another in the large of who for its to on excusable matterial used in the manufacture of the goods which are exaction to day only by on explorate there is also

ੀਅੰਗ ਸਹਿੰਦ ਭਰਸ਼ਤ ਪ੍ਰਸ਼ਤ ਕਰ ਬ੍ਰਾਹਜ਼ਕ ਸ਼ਹਾਰ ਵਿੱਚ ਖ਼ਤਰ ਨੂੰ ਸਮੂਹ, ਜੇਵਾਨ ਨੇ, ਸ੍ਰਹਮ ਕਰੋ ਸਨ। ਜਿੰਦਰ ਕਿੰਗ ਦੇ ਸਾਹਿਸਤ ਸ਼ Tripulation government of the supermodern Blooms, without has more at the su

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(14) बिट इस आदश न नई मृत आदशी का समागित है भी प्रत्य न पत्र आहे, तो कि एक का रहताया है है है। उपिता उन मिला जान मिलिंग है से तो के होते अप री की लिखा मेरी नहीं में कहते थी है। उपित्य प्रियोगिया निर्माण कर के प्रति से मिला के एक मिला जाता है। है के उपित्य के एक स्वीति में एक मिला के प्रति के एक स्वीति में एक मिला के प्रति के एक उत्तर है। है के उपित्य के प्रति है के एक प्रति के एक प्रति के प्रति के प्रति के प्रति के एक प्रति के प

(৪) ন্যায়িশানি সমস্থাৰ গ্ৰেন্ড (প্ৰিয়ান্ধ হৈছি । ইয়েমুখাও ক সেন্ধ্য কুল কেইছা কে ভ্ৰেন্ড কেইছা সাইছা সী মোন পৰা নিৰ্দিষ্ট ৪,২০ কাই সৰা নিৰ্দ্ধনৰ পুৰুষ্ট নিৰ্দিষ্ট নিৰ্দাহীক। আইশ। ই ৪ মানাস্থানী aposketion of 150,00, as পাত case internet, and the order of the adjusticating matematy shall be the counties stantage of 25, 3,50% as presumped ander 30% all leads of the light of the Adjustic, as a conduct

্মি । মান্ত প্ৰকৃত্য জনাইৰ জ্বলত পুৰুষ কৰা মধাৰত গুলাইছি এই সেইছিন্ত (নাই প্ৰিটি) নিয়ন্ত্ৰী । এইই টা এটিড়া কৰা স্থানী সমানিকে লালনা কৰি স্থানিকতিক কৰাই আৰু বিকাশী কৰি এই ২০০০ চাৰুটিৰ জিলা বা । ইয়া চ At partial la also invited to the religion of many these and, other religions, for which in the distance, the content of the content

(हैं) कर अभी और आगोजार को अगोल राष्ट्रित रहने से सर्वाद्य व्यागक, विस्तृत और अधि , बार कर की कालिए उन्हें में विदेश में विभाशक we wild the constant की देख समये हैं। अ उन्हें का अभिनेत्रकार, detailed and latest procedures set this to filling so expent so the legitien a god the definable, the department may recent to the Light attended without we wild the set with

Marin .

## ОБОЕР-ІМ-АРРЬАЦ

 $p_{\rm tot}$  with Commissioner. Central Peaus 8, Service Tax  $c_{\rm t}$  Pharmagar,  $\sqrt{\rm hereinafter}$ where  $\epsilon$  is as in the appellant if  $\epsilon$  has find this appeal significant NiO No. . BHV-F80. IN 1901 ADC by  $p_{0.5}(2015417)_{0.5}$  and 18.0(3.2017) increing Lemberground as fit on impurpod order.) passed by the Adelljena. Commissioned, Rajkot ( beginning referred to as  $^\circ$  the adjudicating authority (in the case of M/s, V as  $B(s_0,s_0)$ ) Coke, Gujarat Pvt. td (heremafter referred to  $g_{\mathbf{k}} \cap \mathrm{the cosponition}(1)$  .

- griefly stated, the facts are that the respondent had model are interpretable. supplied hapticake to M/s. Ispat industries (Now M/s. 1895 Isaat Steel Inc.) Colvy Manarastra. en 10β basis. On conficution of havines and coall nates issued by the cospondent, it was marking that they had charged her ain amount towards freight from Mrs. ISW ispet Steel Etd. and have not included the freight amount in the assessmble value for the purpose  ${f c}^{-}$  $\phi_{s} d$  arging Sontial Lectice doly emounting to RK 31.0/4 m/c during the period from March. 2011 to March 2017:
- Feeling aggricond, the disportations had filed the supestion the following grounds:
  - That OID dated 10.02 2017 is not legal and proper. The activities the authorize has erred in Judging that the amount of fought is not liable to be included in the  $_{ ext{decler}}$  which we like as the "place of removal" is foctory that in this case.
  - The copollant base submittee that the peods have been selective tackrespondent and FOR Sacisform a fixed amount of freight has b riangle 0.76 ected by them from the payor. which is mention in the invalors. Hence, as por contracts, the ownership of the excisable godes has deen transferred by the respondents to the universe great set and thus the place of removal in this case is the poyer's premises.
  - The Section 4 to Central FigSe Ay., 1998, and provising of Bulg 1 of the Contral. Exsist Valuation (Determination of Price of Excisable Georie)  $\mathbb{C}_{0 \to 0}$  2000  $\mathbb{R}_{1000}$  bean reproduced by the appellant. On combine reading of section  $A(1)(\epsilon)$  of General Esting Adi, 1944, Addicition of "Transaction Value" and Bitle 5 of Cen<del>tral</del> Lected valuation, (Options notion of Price of Lecisable Goods) Rules 2000, I, is older that since respondents had entered into centract for supply of exactable p(s) and  $\Gamma(R| ext{basis})$  the  $\Gamma$  ${f p}$  ace of removal would be the buyers factory gate  ${f r}$  lence the cost of traing annulus ${f q}$ has to be included in the essessable babbe and Central Excise duty is table to be discharged on it.  $|\Pi|$  a respondent has charged decrean amount towards finight and the same emount is specifically monitoned in the contracts as well as in the property.
  - That as per explanation, 2 under Bute 5, of the Central Excise Valuation (54) militarity is of Price of Excisable Cookle)  $\theta$  designed, that  $a imes at the expectation from the factory <math>a_0$ has black of removal, where the liketory is not the givine of removal, shall not be evidence. for the purpose of obtaining the value of the extradible  $g \cdot ds$  . Therefore, in the present,

The Colombian Co

<u>, √ √,</u> ...

case, wherein, the place of removal of pivots in not the factory gate (A). Is the largers promises, where (wherein) is the goves is transferred to the bucchs bother associated at assignment which contributes in the centracts for sale, the cost of transpartation from the factory to the place of removal order. Other-killed from the assessable value of the good.

- The ladic cating authority like lemeship hobbling that he per hand's completing gog/12/2017-12 detect 20.10.2617, is required to factory gote as plants of removal, whereas the cit filtration issued by Board over Comban No. 10.0 of 15.444 detect 30.00 d.00, which clarifies the indice of removal as the constor of property in goods than the sales in the type layer with a factor to determine the indice of removal. So as per mendicular the 'Place of Removal is the 'Place of the end indice to take its third the obtained the tilt of property in the goods are here and control the buyer / harmonic tile property is deemed to have been passed on and that is they be end, ended to the buyer / harmonic tile property is deemed to have been passed on and that is they be end, ended.
- Purther the appellant rescretivity of the case of C.C.s.M.2005. Wis EMICO Ltd., reported in 2015-199 -169-50-00 when the Hombio Abex down, has held that charges of outwards freight and insusance are to be induced only when so his larges are incorred refine the Made of removal. In the present case, the foright charges have been insured before the place of removal.
- That the appellant racks uplin in terration that DIO No. or V-EXCOS 800 ADC PV 900-16-17 (ateg in VOP 2017 into confirm the demand of Ps. 31.07,177% or or of the previous action provise Section 114(1) (Nove Section 114(4)) of the Central Excise Act. 1044. To resolve violations to perpend a windle Section 114A of the Central Excise Act. 1941. To repose penalty the Pin of 25 of the Central Excise Poles. 2002 1630 with No Lon 11 AD of the Central Excise Act, 1944.
- personarthearing was prairied to the respondent on 15.32.2018, vice this office letter F.No. 92/54/FAZ/BVR/2017 dated 57.31.2018 which has been returned thank stating lifting better 13 office whose letter to the Commissioner, CCST, Rhavanagr and in really talk office bas recovered a letter from Assistant Commissioner Bhavanagar Dvislon-I, lefo toling that the cent is closed and party is a defaulter and not made allow the contact information of the unit is available of them.
- this appeal was liked before the Commissioner (Appeals). Balket. Includersymbol basised no himself as commissioner (Voyeals) / Appeals of themself reparcs to the case of a spellant side. Deprets Civilian No. 202/6/2007-Server Tax district 17.00.2017 and Rearth's Order No. 35/7417 Service Tax dated 15.00.7017 sessed by the Under Secretary (Service Tax), 5.001, Mitthe Capital Revenue, CESC, Norvice Tax Wing.

6 If have carefully joins through the facts of case and the group is mentioned in the appeal. The issue to be decided in the appeal is whether fre this charges are to be included by the transaction value for the primose of determining excise this.

For decompline two withholds the relationshapes are to be included in transaction verse it would be useful to both to the observe of perturbation for Control Excise Act. 1944 and Rule 5 or the train Facise Voltabor 1 telephone into  $\phi^*$  This of Excise 6 Goods) Fules, 2000 both a whorstyly explained in the originating Show Sause Notice of this issue [page1,  $\phi$ ,  $\phi$ ] become  $\rho_1 = \frac{1}{2} \frac{1}{$ 

- If the line the goods were to be descered at the place of the line-hand it is the only place or wind the comptance of supplies was to be affected. The GWM ship of the goods remains with the response to the goods reach the device includes the SAM octually takes place at the device include therefore, the lipte eight remains if for the proposition under Saction 4 of the device rad Excise ago, 1 M4 is the payons promises.
- graphy find the first the contribution of the someone Court of inclaid decision in the case of table they are placed at place of bover then once of poods was not see of cost of material. Fertial Exceptionly, laboring a rapid portation, the Kinskellin to the decision of the transit of inequality, laboring the see on the processes which implied that the paper reached the destination, ow wishlo then in normal with the respondent. Further the latend of a ranse order was to transfer properly in good to the payer at promotes of payer when goods were delivered, thus the property in goods was at that time and therefore the sale of goods was at place of bover on delivery of goods and not at factory gate of respondent and hence height is anyon were inclusive in the valuation of goods.
- It in that I find that IQUIC order todayar No. 992/37/2014-03 cated 20.10.2014 has all lifted the formula of symmetric to the same of symmetric transport of the same of groups for the symmetric transport, by larger of transport charges in value, payment of resurance or who beers the risk are not the relevant only generally be assessed in the place will be place where sale has taken place or when the proper of e.g. in the place where sale has taken place or when the proper of e.g. in the place of the solution of the boyer is the relevant possible satisfaction to determine the place constraints.
- In ordinary the place the dwine skip of the goods is transfer two to the inline t, their premises only and the sale actually takes place at the destination and the iplace of which we the purpose of the valuation under Section 4 of the Control Excise Act, 1944 is the Soyens is emises. The t-fine, the transaction value will include the freehold energies.
- 11 As for encosided of penals, on the accesses, I find that there is a work vacable to as a g0 suppression with an intend to exact payment of duty in task of goods decred without subjecting them to value into  $V^2$ . Find to 4A of the Electric Factor Act, 1944

- 12 in the interest one in Section 1274, I find that the notice has also paid the obligand consti-Stati Sociosid Laty Nice the Lind Hard Refer on good recovery shall be allogated regest.
- 13 In view or the above (pass the rollowing umon).
- 1) Confirm the demand of Central Except data amounting to Rs. 51 Oz. 2774 (jlight one lass seven bonsens) and from the data reverse seven proplets independent on Rs. d. 2017 pp. March 2017. Do a lab discharge Libert from Li Ablucia helder pp. Lagge App.1944.
- (ii) If a confirm the demand of interest labels in the section STAA of the sequest  $p_{\rm con}$  and order recovery of the same
- (iii) Timpose pendag sonor ling to fin. 31,07,177/s undex 3 relia. (ii) of the Contral Ection Fulls. 2002 read with section 1140 (11 for of the Contral Ection Act. 1374 for the gondo degreed without in 1,4 ng the file-glot charges in the essessable value for the perfect from March 2011 to March 2012.
- play the terms of provision of Section 11 AC (1) (c) on the Control Backs Act, 1044, the object centures an aption of payment reduced penalty of ALM of a 12 will determined a subject to runkment of conditions law of word there is a

14. The appeal filed by the copy is not stand disposed of all shope terms.

ил виселя эколого. Допитокацивесто<u>з р</u>емял**и, гестуя** Дел, Армиту вейды

Jane 05.7618

N.Nr. NO94/EA//BVR/2017

DY RIVED

Τc.,

Progley Assistant Commissioner.

CGST, let dept at Paying

Division <sup>7</sup>

BEaveager - (Allongwith the copy of the OLA to be served to 1843-58an Abgressii Copy (Opin miPvr.f.::h.: Manea, Beravicaen: )

## Copy to a

- The Class Commissioner, CC 50 & Central Excess, A Modelah I Zous.
- 2. The Principal Country (not, CGS) & Central Excise, Economics.
- and the Assistant Community of the test Events & Subject Care Division 1 , Blavewager.
- 4 Julio Jiv Addil Commissionere, Systems, 1998 J. Phoymagan.
- × ,5°° Cuero Nila.
  - 6. F.A