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	न	≣] – Արավարում արդություն չուրեն հայցերում արդցուրումը։ լերել դարք ու պարտանում է հայցեր է է ներել երկություն π հայտարին էջնել է Հայացի ու են արտություն է ներել է է երկ Դին նարտներ մինք անչնչ արտոն Հայաստություն։ Միրում հայտ է Հայաստությու								
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	:	র্বাচনা পুরুষারে ওঁ সাংটিনা হয়। ১.৬০০ চি.৬০০,০০৫ চি.৬০ বাংলা	Антан Анария (1996) - Каралан Анария 1996) - Санада Анария П	angan kerangan pertembahan kerangan Merupakan pertembahan kerangan di						
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- ৰাৰ পালে বিভিন্ন কৰা বিভাৰে সময় হৈছে বিভাৰ পিছত হৈছে হয় উপৰী প্ৰকাশৰ বিভাগৰ কোৱা মহে হয় লৈ কৃষ্ণ ভাই বিভান ক পিছত উপৰী মাজ পেছতি পূচাৰ মূলৰ প্ৰতি সময় সাহিত্য সংঘটনা হৈছে বিভাৰ প্ৰায় বিভান বিভাগৰ সময় হয় বিভিন্ন বিভান ক উপৰী প্ৰথম মূলৰ মাজ বিভাগৰ সময় হৈছে সংঘটনা হয় হৈছে বিভাগৰ প্ৰায় বিভাগৰ সময় বিভাগৰ সময় হয় বিভাগৰ বিভাগৰ সময . : frieden of any set of goods is the first description of the system of the system of the set of the system of the s
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- n 2008. Ale the second state of the Color and the second second second state (1996). The second second second s Next a second 30
- া (পিনি বালে পৰা সময় বিদ্যালয় এই এই বিভাগ পুৰুৱ বালে বাল বাল বিভাগ বিভাগ হৈছে। বালে এই উদ্ধান আৰু উপল্লা বিভা সাই বালে পৰু ভালে বিভাগ বিভাগ হৈছে এই উপল্লা হয় যে, প্ৰথম বিভাগ বাৰ বিজ্ঞান বিভাগ বিভাগ বিভাগ কোনে বিভাগ বিভাগ আইন বিভাগে হৈছে 121 nave nazivality. Onderse en kozu deske na bila sed kozarda promero zna zna zako se nazi menaza bilani se astroko konstrukturu s Nazivale 6 Militari zako kozu filozofik se se se bila bilanda na jižaj se na svoje na svoje deska na svoje Na bila bila en zako filozofika jižak
- 3. Ster wilder A. District contraction is an electric contraction of the four end of the four interaction for the part of the second state of t
- ene e al forma d'al malement i anti anter a company de la forma de 1714 Anna Martin Martin Martin Martin de la forma de la grant forma de la forma de la serie de la serie de for 1917 Anna Martin forma de la forma d 1917 Anna Martin forma de la forma d 1917 Anna Martin forma de la forma d (3.1)
- n^e politik for de presigneyt a group d'al super a politik (Carear a represigné), a faité a politik, parat, a Tel guille d'al superior de la été (Carear) été a faite parte d'al superior de la faite politik de la politik d A superior de la carear a companya de la companya de la companya de la faite de la politik de la politik de la Recent de la carear de la carear de la companya de la companya de la faite de la companya de la companya de la Recent de la carear de la carear de la companya de Recent de la carear de la carear de la companya de Mej de la companya de la carear de la companya de la companya de la companya de la companya 14
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- ener ver tekste som mynd at der et soffens eine först y frättig efter till stad der före sondere defen ettern för Härtefor ette stad före Ener förstatt verden föra föra föra som som att som att at der Guerren Grahe atte Samke AuterSam för som att softe som atte stadart gönge att som atte som atte som atte att der Guerren Grahe atte Samke AuterSam för som atte :"r
- , a the analysis of a final many solver much a classe was should be also also a metaan shiftin to book final me Waxaa agaa mishiya ke ula a Film ya dalaya na alaya ya alaya agaalaha malang ta Bing af apoet ta dha dipher apoetaa awaadaa dha ayaBana mey Adala Billio aha didhaa ya alayaa alaya a 721

CORDER IN APPEAL ::

The below inentioned expeats have been find by the Appellants (determinant instance) to be Appellant No.1 to Appellant No.9.) As dotated in the Table below agains: Orderer-Orginal No. GelACARURA/BVR/RR/2018-17 dated 31.03.2017 (horomation referred to be the impugnee orbit) passed by the Appellant Commissioner, Central -write Reral Derven, Rhavnegar (*inceitable* referred to 88 the 'ower adjudicating sufficiely'; -

Sr. No.	Appeal No.	Appellant No.	Name of the Appallant
I	v2/3210HVH02017	Apacilari No.1	- M/s. Atam Maconar solu Breakers - Pvt. I.M., 13 250, Kaliable "Parinagar, - Potrikt-Bhavnagar,
2	V2/320/BVR/2017	Appellar). Nati	Shri Anli Munshiram Jam Hurster, M/S Alant Manuher Ship Breakcha Pvt E.J., D-250, Kallabol Remosgar, Disblo-Shavi aljer,
}	√ช/325/8ี√รี/ชื่∂ 7	Appellari. No 3	Shri Dhala, Sheth, Piol No. 819, 3-2. - Geellas Chock, Jain Derasar Road, - Dhavnegar,
_	V2232/DV3/2017	Apoultan. Nh, 4	Shu Mnadbhai Amershithai Patel Hist No. 20 Samash Park Soarsy Buuhashilagar, Bhavhagar
	<u>V2733 eHV</u> -66817	Apodiant No. 5	- Shit Klahorthai A. Cale, - Propilato na Mar Kraina Enterorea. - Piot No. 19, Senjosti Perk Booety.
	<u>- 727251/19</u> 78/2017	Appellant No. 6	- Suphas mogar, Bhavaagar - Shit Baldav Kitaban Gupta Propriator - Milai Baldav Kitaban Gupta & Cut, - House No. 79, Sector – 218, Nataji - Suphash Market, Mandi Copinégach - Distros – Heistiga <u>m Sanio, Ruhjab</u>
	ี่ ¥ี≫2356∨สุดหา	Appellary. No. 7	Stri Sanjev Cupta, Propriotor of NA R.C. Cupta & Cut, House Ko. 202, SecordA, Mandi Gobindgath, District – natetigero Santo Projeju
	 	Apodian; Ny, B	Uthordra Auroai Proprieva of Mis. UK Uncal A Col, Engel M. 121, Bostor - 241, March Goolphigath, District Factografic Santo Puejab
	V20.54/EVE/2017	Apoellen. _, No. 9	Shi Sabaaan, Propieto Mis. John Lei Matar Copa, House No. 190, Sector 40, Mandi Copiaogern, Dis. Iol – Falelgerh Sabit, Parjab

2 The back tools of the case are that Angersol No. Lives engaged (in perprovers 1 or obtaining goods and materials by prepking polos, boats and other Robing structures which amounted to menutatooral (in terms of (voto-5 or Sochon-2V) of the first Schedule to the Central Excise Tallif Act 1965 (Lereinsfter referred to as 100 fAll) and was registered with the Central Excise Department and hub (seen avaling Central under the previsions of Central Creat Rules, 2004 (hereinafter referred to be (16 CCR)) Appellant No. 2 (Director of Appellant No. 1) year stloget (

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(c) have blancostinely dealed the excisable goods and evalued psymptom of Central Excise duty. Appellants No. 3 to 5 vere brokers (prough whom clandeslikely (coda were alregodly sleared by Appellant No. 1 and Appellants No. 6 to 1 were alleged to the trivers of ruch clandeslikely deared goods, were block were block to the possible goods, which they hav reasons to believe the cross were \$bbre consistent under Central Excise Law.

the officers of the Directonale Carela, of Central Except Intelligence 12 A (nervir alle, reterned to as "DisC+1") has gethered, ntoll gence which indicated that some unit breaking artis of Atang/Sprive were engaged to largo scale oversion of Control Excise dury by way of clandesane removal of plates to the Rolling Milst siversion of noode, undervaluation of cords atcland that cost of a longlund activities. were being control out by the Ship Dreaker's with the support of some brokers. These brokers were straining enders from different Solling Mills and Humake units and anally times were getting the material dispatched through some Transporters without Central Excise involtes and without payment of Cartral Excise Surv. These brokers, we ela so prophing orders from Fornace Units and Registered Dealers for supply of General invoices without any physical supply of control. The DOGHE conclusion at more ight wavy and discreen varification, which burk medital some prokers were the matic executers/feolicitors of such lifer transactions, who were arting as Receil conduits among ship Breakers, Rolling Mills, Fullnabe up & Registered Designs, 7(aders, Transporters, Angadias, Shorifs evolutions are proper execution of the issue. DGCEI conducted externinated search at the promises of major brokers at Rhaynagen and recovered several incriminating documents substantialing life intelligence. Thereafter, prother round of search operation was obsolution or transporters, whesh populately were avalable on the reports of melplane turning units, μ emisses of various SMp Breaking Units and Briding Mile. The intelligence indicated that Appellon, No.5 to Appellast No. 5 were inajar Brakers of Hhavingar involved in large scale illust achyrons of a ding, charting and facturering Ship Breaking U, its, Full are Units and Robing-Mite in clardesline removal of culiable gates and fraudularity caseing of Cervat credit without physical heaply or gapes ato us search operation. was also conducted at the atsidence one office oren ises of Appellant No.2 to Appellant Not 5 in which incaminating documents were recovered $\{ i_{i_1}, \dots, i_{i_{j_n}} \}_{i \in \mathbb{N}}$

2.2 The above let' to issuance of Snew Cause Notice Nr. DGC20/420.00 202010-14 pater 10.00 2019 processing receivery of Central Excise rolly of Rs. 49.00.804/- from Apportant No. 1 under provisio (p. Stellior 11A (1) of the Central Excise Ap)(1944 (be emailed referred to as "the Apth) and appropriation of Rs. 10.00.000/ paid during investigation, receivery of interest upper Section 11AB of the Apth and imposition of penalty under section 11AC of the Apth and imposition of centrally for passing on 16.000 and constituent of Ms. Approximation of penalty for passing on 16.000 and constant of Ms.

physical supporting onto under Rule 21(2) of Canthal Excise Rules, 2002 (horoidaber referred to be "the Roles") and "proposing personal behalfy on Appellant No.2 for Appellant No.9 under sob-rule (1) & (2) of Rule 18 of the Rules — an sold SON was adjudicated by the lower adjudicating authority vide impugned order for "m0.00 Gordra: Excise duty and appropriating Rs. 10.00.0002 clso, erdered for recovery of interest and modesed behalfies or Appellant. No.1 to Appellant No. 9 as propriod in the SON.

 Being aggi eved with the impligned order, Appellant No. 1 to Appellant No. 3, protected the appeals, inter-sits, on following (provide).

Appollant No. 1 :-

(i) The margued order has abliat all deat with the pleas mate in writer copy made by the appellant before him: that judgmenta released to and referd upon heat been ignored by the level adjudicating authority which makes the impugned order has speaking and non-masched, the. The lower adjudicating authority has not recorded any finding on the arguments taked before him and has curstory and spectrumous pleas made by their pleas of the appellant stop, and release the various pleas made by them in their reply to SGN and writen actions on blac before the lower adjudicating automasced hier and writen schemasce hier and her any finding on blac here in the second before him and has curstory and spectrumous pleas made by them in their reply to SGN and writen actions on blac before the lower adjudicating all the same are specificatly conversed herein

(ii) The lower adjudicating outfornly at Para 2.8.1.8. Para 2.8.5 of the impligned order reported the last the last the appellant inside a request for supply of relied upon doctments so as to defend their case. The said request of the appellant was not originated and order had been based (coll mixing the duly site indexing penalty, By not providing copies of relies upon documents, the lower adjudicating authority bac participated the principles of network justice thereby rendering the impligned order amonastic $\frac{1}{2} \sim \frac{1}{2}$

(ii) With regard to findings recorded at Para 2.7.0.2 of the impugned order, the appollant submitted that they are not so much aware with the procedum or adjudication and they are not familiar with Central Excise Law, Cherefore, the appollant is verking as per flow advice of their consultant. However, the coostifant of the appellant is busy with adjudication of we of the department, the appellant has asked the relied upon documents at the time of personal hearing. The appellant was advice adjudication of the first of account in a problem was accessived act, we provide at the time of personal hearing. The appellant was doubled there is lower adjudication of CD. If BUD has been provided to act provide the record in his findinge regarding report takes an accessibility the receasing ingredients to record in his findinge regarding successibility as to record in his findinge regarding successibility as to record in his findinge regarding successibility as to exceed a table to record upon the receasing ingredients to appellant that whencer makes an accessibility as to exceed a the receivery document that whencer makes an accessibility as to exceed a table to appellant. It is the armonic reportment that whencer makes an accessibility as to exceed a table to appellant, the department cancer experiment being to report the top appellant of the department cancer experiment to a table to a copy from the top appellant of the department cancer experiment accessing the appellant of the department cancer experiment to a table top appellant.

epocalant. Once this responsibility is easy upon the department, it cannot be charged by all their the bulken of the appellant by saying that their request for hard copy of documents is a dilatory tect of

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Who regard to furthers recorded tail Pelle 3.5.1 of the impugned order. 'r::" appallant within the line. There is no evidence exceptions statement of the consponent and brokers is discussed in the SON; that he statemente of vehicle menants of breford twens or proyers of the goods have been recorded and no combatative evidence are available on record about the mount of any paging out. 9909 regard to Sindings recorded at Para 2.5.2 of the indugated order, apoptiant subinitied that it is well sollied encopie of an its that charges of elasticished removal are serious charges and earned the established on the pasis of some registers of cheer led instance. The appeliant relied on decision of the Honthe GH31A (Atmosfathad in the case of Liefwal Dyes(us) industries reputed as 2007 (216) ELT. 210 (Tritish Alexan) affirmed by the Honble Guparet Liph Court reported as 2000 (204). FL1 -442 (G x) With repart to birdlong concreted at Para 3.5.4 chobe included order. appellant submitted that the investigation in the present case nin not go to the tageal. and end does not result in the alleged clandsating solivities on the cell μ' it e appellant. Apart from registers of transporters, which is not can virg much ov dentiary. value, there is virtually no evidence on report to establish clancesting activities of the appellant

With regard to findinge recorded at Pere SRU of the impugned order is that the nonuments and diaries spized from Gar. Bharts Shall is they usily evidence. How can be epocland explain or clargy on some write up of Shr. Anarat Shoth and bis appointant. Thus, there is no such plances, he removal be held under the impound. order and methods, continuer on of nomane of duty and conaty imposed under the introqued order is not practe. With legaritic theory's recorded at Para 3.8.2 of the incogned over the submitted that SCN neither provided any letting relied in SCN in which they have listed decishered large number of encoded arrang and names. appearing in the pocket diaries/hotebooks seized from the brokers. There is do oviriance observatives are directly the department of a leased. But transaction though builden of proof is regiring the december. The expellent domy all the charges, iovered against them and a legation made against his in the Pora. The specifiert crited an judgment to the Lonfeld Supreme Court in the case of Aarba Laineberge as 1583 (15) EUT 1721 (SC). 豪心学

(vi) With regard to Speings recorded at Para 3.0.8 of the impugned order, it is common that the brakers through when it is alleged that the appellant i as the eC messe goods clandestinely have not admitted to the fact non-any documentary avidence even, remptely suggesting that the appellant was involved in clandestine.

Page 5 or 56

renoval of any such goods. There is any evidence neither documentary nonofficeway, available on record regarding the transport of so-called ideity seared goods from the appeliant's premises. There had to be an evidence, egarding sets of so called idently purchased goods from the appellant by some persons. With regard to finck gist excided at Para S 9.2 to 3.10.1 of the introgenet order, the submitted that the allogations of clandestine moneyal cannot be sustained only on the basis of settements the some conclusivation is required. The appellant dis not receive the amount which has been indicated in the private diaries as paid in cash to the appellant.

(vi) The appellant of not want to repeat their arguments made above in respect of centaria confirmed on the basis of investigations sarried out with Shri vined Patel. and Shé X shor Patel. Brokers for save of previouit is submitted that upper the Indean Evidence Act, burden of proof lies upon the pany who contenes semething that to be pischaed with reasons and documents by the department. Neither Sim Vinad Patel, Broken has stated that he had brokened the displaying strappy of opgets trappition spostant not Shri Kahor Pale' has stated that they have purchased the dutable. godes diamonstrally from the specialization to Director of the speciality assurement states that they have cold the goods clandestingly. As regard to date attributer from the periodrive, Shri Vince Parel has stared that to maile a gradies of extremiting, Honory to control 4, verice produced by the sessibler ... The lower adjustance authority is to use to have accell for an attempted. escolaran te carvey innocarce of the appellant. The deprovition made by fifferend person in their slated enterane dot relevant. None of the transporter has confrected, that the goods diebled by the appellant clandeshnely had been transported by norm on none of the angadias confessed that any amount has been paid to the appellant

(vii) The spaciant and not indulged in undervaluation of the excisable goods and had not evolved Contral Excise only and not repervee differential payment in base (on the) buyers towards clearance of excisable poors. If the rates quoted by Mos. Major and Minor as well as other age norse/persons are actual rates arevailing during that period as recorded by the lower equidicating each fill at Para 3.8. Then usey should take these or test for each and every invoice issued by the oppellant during that period, however it has not been and that investigating efficies have taken any these moles is which the transaction value shows that the problem have taken any their problem agencies. They have non-oppellant the problem take these agencies. They have non-oppellant the problem take appellant during their goods error agencies. They have non-oppellant the problem take appellant during their goods error agencies. They have non-oppellant take appellant as also sold their goods error agencies.

(ix) Az regerá lo passing or freuduleni cenvet credil by secing obly involve. If a f submitted that there is no evidence on report to show that the capeteric did not receive the payments regarding sate of goods in question through proper backing ().

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OPricel. There is no evidence or record to show that the appollant was contribute with the purchaser through 8th Whot Fratel and 5th Kiehor Fatel by issuing due paying boots and only. The entry alleged as on of socing impagned order is being conclusion in an architery manner one for some is likely. Invalid and without aution by of law remembring the inpagned order havie to be quashed.

(x) The behaliv in posed under Section 11AC of the Act of itigal, it is established principle that interform about commission or any offense and to the proved, in absence of any evidence that escisable goods monufactured by the appellant rad in fact been a cared without involves by them, the avegation of elaboration randoval size orderivabation of excessible goode did not alise at all. No evidence was addiced in the SCN to establish that the alloged acts or omissions had been committed by the appellant cellberately or contractices y or in flagment violation of provision of axis or with intention to evide dury the paraly was imposable when there was no craft additionation to evade payment of duty.

(xi) As repaid to conality of Rs (1.63,806/ imposed on the coordiant under Role (29(2) of the Rules in is addinitient that the acjudicating accordity has traveled Levond the scope of SCN as there is no process. In impose conally under Rule 26(2) of the Rules on the appel ant.

Appellant No. 2:

(8 The appelant is Director of Appelant No 11 and hot acted with any personal meriod of benefit and thereby the question of any personal penalty upon time is not expert. Mereover, a penalty upon dealt with, any excisable godds which, accurate procession of, or otherwise physically dealt with, any excisable godds which, second by the solution who dealt or knowledge, was listly to controcation. It is possible that a personal penalty of the solution is belief or to excisable godds were listly to controcation. It is petition that personal penalty on Director in addition to the controcation. It is petition that personal penalty on Director in addition to the company not papeable. Hence, Rule 25 was not invokeble station to experiant. The appellant relied on following decisions:

- Bright Brotherd, July 2008 (199) EU1 991: 11 Mumbar:
- National Plastics (I) Etc. (2004) (CC) (L2) (1990) (L + Monthou)
- Kar deep Marketing PM 11d. = 2004 (166) FLT 216 (Trill = Boll).
- Ein: Solvekumer Textlins (2005 (188) EL1 334 (16. Coennal))

(1) There is no excerce on economic of ow (is) volvement it evasion of Central toxish duty or was and of the ponetic arise. As field by the CESTAT Korkata in the case of Koshav Kumar Thatad reported as (2000 (158) of - 211 (11)). Refeata; penalty cannot be indused. The judiciel pronouncation is relatively upon by the lower adjusticating antherity and not applieble being different set of evidences and Circumstances in that cases.

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(ii) As regard to penacy at 6s (1)(8)(60%) measor on Aspellant No. 2 under Kule 25(2) at the Rates, it is submitted that the adjudicating authority has travelled beyond the scope of SCN as there is no process to make penalty on hum theor Bule 20(2) of the Rates.

...

(W) The appellant had not a adelogenances as menomed in American IVKP B to aCN to Mrs. Show Krishos Enterprises or to other buyers through SLT Vincul Patel and Strickshor Fatel without supply of corresponding goods resulting in fraudulantly availatent of convationation for EST (200,8084, by the recipient units, The appellant record submissionalmade by the company of the oppellant vice Parc 6.5.8, 6.6 of rep.y to SCN and external relationation and relationation to same are specifically compassed bracen.

Appellant No. 3:

(i) No impligned order is based on summers and conjunctures of the adjudicating authority and is against the carryon minatural visitio as the determinisubmissions made by kin based on the facts and prounstances were not considered that impligned order slow functionary and therefore, this required to be quashed and set aside.

The adjusticating authority had not supplied the relied upon documents along :iit with the SON. It was not proper and legal but supplied some cooles of deciment after regress there by him. There we elsage numbers of down ends had been refeal own. which were mainly in the form of recorded statements. For preserving defense really, each and every occupient was required to be studied by comparing the contentions. contended in the statements of the respective persons harroly Manish Patel whose statements that been discussed in the SCN. This important work optic not be done. from the relied upon documents supared in CD - herefore, it is bearly established. that, the education authority has crossly violes of the philopic of netural jushes. He relad upon the settled case faws Secure Indestries Ltd. (2003 (155) ELT 559. (CESTAT), wherein it besites n law cown that facy-disation order was set as co waren copies of coordinants relied upon were not scipplied to Assessed even (1711) was given appearently one month prior to beering to take photo coulds. It was held, that dependment was obliged to supply all documents. Otherwise, there is whatten of principle of natural justice — In the case of PGO Processor [2000 (112; ELT 26], the Homble Divisional Send, of High Court Rejaeltian hes held that for home work. coasts of documents rotatilupon are required to be supplied. Mere spokatility it: association decomente and su colettes) plinte copy that sit is not sufficient. In the present take. The adjudinating authority has failed to supply the complete set of 10180. upon decements through requester in herefore, the impligned order is not proper and logal laut decerves to be set bside.

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The Sch Rue (1) of Kula 28 is perfeiting to the virus rate real of det which ;jD circumstances such perarty is in possible. In this provision, it has been epoclified that when any person is concerned in transportation, concerned in depusibly, beacing concealing, setting or ou chasing any exclashic goods which he knows or reasons to actions are table to configuration under the Action Rules halped the extremal to the preserviceset up such change of pointanet on heal and made in the SCN. Therefore, It is clearly established that the adjudicating optimized as wrongly and without authority of law has imposed penalty under Sub Role (1) of Rule 26 of the CER. Sub-Rule (2) of Rule 23 movides for infating benal altitudiation against a potton who has at alequin storing, mensioning, concraring in illicit removal of excisable goods under massanaide belief that the excisable gades are lieble for pophashan. Aspolate had acted only limited ecosities say to recognize the sector and buyer to each other with the availability of M.S. scrap. The payment of sale proceeds has also been materialized by the concentral triver to the opacitant No. 1. The transportation in the present case had been move by the buyer. It is not on second that specifier, was mayized in transportation of the dispided goods plasted without payment of central exceeduty. Therefore, it is been y established if all the activitizating automaty has wrongly and wrongli authority of law has imposed conally under Sub Rule (1) δ (2) of Rule 26 of the CER. ŵ, 🔨 j

The impugned order is not solit-contained order, in the forcings the tiet. acquidicating partnerity rays mathly repeated the locks carreled in the ACN. To sustain such Apargasi of Mandestine removals, such Contral Excise records would have use it verified, in the present case in a such verification has been taken on record. Only on the besis of such statements, such clandedtine removal cannot be sustained. Therefore, the impounded order is not correct and this in absonce of such verification of the statutory records pertaining to the AsilianG Rules framed facts under The sales details show has by that unit such a anticating removal carnet be sustained on the base of the above sales particulars write it constraintly objectors with retermines to the Control Excise records. Therefore, weak-we is not provid to sustain Bie charge of periodestina removal Hurther, no had acted a initial role wheogenize the buyer and seller to each other and liked the price of the goods on the basic of the market rate prevaling at the motorial time. He was not used to go the tipe to the ship troaking units for monaging, caping of the dubable goods, he had not remained mesent at the time of predatation of Central Excise insome and at the time of removing of the diffehic groups from the factory premises of the unit. Nowher, 10,000 findings of the implymed radier, has it from hold mut be was present at the COP of removal of such distable goods clandeslinely evolutionant was also the fact that the height changes have been paid by the buyer of the surcellar general interations, he was not at all involved in any way as provided upper Rule 25 (1) § (2) C (56 CHR

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(v) The adjudicating submativ has simply ranged the events mercioned in the SGN bis tailed to establish the charges trained in the SGN. The adjudicating authority has alloping proved the bistige by importing the facts and charmateness harabed in the SGN. He has needed to be own time has which are required to be given using a quest-judication.

(v) Eutonome such signature of the augeriant was taken in token of having the information above in the said Annoxide was correct and genuine. Therefore, the inpugnation detects not subtainable in the eves of take in the proposition states when the werkshoet of domand of SGN appears had been prepared on the basis of such basis cannot be select. Discles which were the records pertaining to the business cannot but by tax and both and to the business cannot but by tax and both and to the business cannot but by tax and both and but pertaining to the business cannot be thange of vancesting tenned.

(4) If it is observed that the subject SCN had been issued on the basis of the say and span spons made by Sh. Manish Palel, expectally will regard to the pale of the Palel party in "short name". But such provisions are stored about any cortex or source data, it any, montonic on the Darly and decoded whell end e said person under preserve. This "decoded" explained by said Sh. Manish Patel had not been demonstrated before the unit of fielded if a sufficience of unit. Therefore, the wey of the investigation partiel out by the Darly such person of unit. Therefore, the wey of the investigation partiel out by the Darly such person of unit. Therefore, the wey of the investigation partiel out by the DGCED is appears to be doubled in which acceptance such domates each by the two, such orthogonal region (the eyes of lev).

(vil) The present case is covered under provisions of the Activit chills an Actifor collection of tax itel Control Excise pury therefore, for making such all generative evention of Certral Excise puly, a recomment showing the fluit manufacture of excisable goods and document pertaining to fluit removal of excisable goods without osyment of duly are to be produced by the department. In the present case could the solved Unities had been taken as concerned for domanting such cuty. But these Dialities remotible said as a "legal document" to frame present of demanding of ouly subcess and unit this completabled by any of the Central Excise population prescribed prefer provisions of CER. The effore, the impatible of the central Excise population be set as the prefer provisions of CER. The effore, the impatible of the central excise to be positioned prefer provisions of CER. The effore, the impatible context center to be set as the center prefer of the set of the formation of the preference of the set as the preference.

6x) In this further to submit that the buyer was atways been poologing themman known as Catatiwala for loading of the required Concutable goods to the concerned unit chip breaking units. But though the Catatiwala was the key person to stare watcher the proces under reference had been removed dandesthely, or hat there is no mention in this regard. Therefore, the noting of the adjusticating authority shad the putiple goods had been removed plancestinely is not out and legal

(x) In the SCN, it was also stated that the Angerties have played bey rate in the factle under reference. However, no SCN had been pseud to the Angudies. The Page 0 m Jo. Asgadias have their found to have been involved is cash transaction as a toget in the SCN. But no any specific evidence has been placed with reference to ber(k) tak consignment/Control Evelop involoal for which the subcalled transaction had taken place. Therefore, so dices, specific evidence was there in the SCN. Therefore, that indigs given by the activities authority are policities.

(x) From the above submissions, and from the lasts and droumstances of the case, he has proven that:

(a) The is not joble for a penal action under Rule 26 (1) & (2) in as much as the auch allogabon or energy of contraction of the edicates derivative removal of the excisable gases has been framed in the SCN. The sonal action under the Rule 26 can be improved only when the so-balled gases has been accessed gases has been accessed in the case of M.N. Shah (200) (202) FLT 110 (CESTAIN).

(1) Will out basing direct material evidences, the adjutitusing authority has wrongly and wrone authority of lew has reposed penalty and is as much as more was no phalge of confiscation, there was no any material evidences that he was concerned to transpiration of goods likelity, no had not abalted any documents of the unit. The department has failed to prove that he was average of concestinal manufacture authomore.

(c) The spicaled pancestnener oval of the dutishe goods have up been proved (a, task of the material ovalences. For each consignment as motioned in the SCN it is repured to be independently proved. But in the prevent case, the set albasis contropolated in general time is not correct.

d) The solicated cash transactions law not been proved with (b) (c) signments as mentioned in the SCN محمد (c) signments as mentioned in the SCN

(ci) No such avidence use their produced regarding settine of contracting documents from the factory premises of the unit to prove the so-called dilage of statistics that the cooject case had been made but on the association oreau psion grand only. He had not referred the case vehencemy as contracted on the implicates or one the linkings of the linkings of the linking or each avide even made or each avide even made of any contraction or even with reference to each avide every so-called consignment clearer, place proved with material eventue. The case against the unit appears not to have been proved with material eventue. The case against the unit appears not to have been proved with material eventue. The case against the unit appears not to have been proved with material eventue. The case against the unit appears not to have been proved with material eventue. The material case against the unit appears not to have been proved with material eventue. The material definition is appeared on the provide against or the unit appears not to have been proved with material eventue.

(xii) The adjudicating activativ tips falled to consider the various case awalls? relive upon by tim are montioned in the active montioned written submission dates.

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22.5 (2015, Again, hit is retying upon the solid base laws which are reproduced here under conite some are squarely applicably in the present case.

- a) Makind Limited (2087)(310) 12 (120)
- Ipric Green Textile 2007 (212) EU1 242.
- c) Vehiclary 2007 (210) FTT 125
- (d) S.R. Jhan, Europeia (1999) (114) EU1 060.
- et [S.] , Kitteka (1996 (68) F. TISSS (66m HC), 1997(94) LLT A 242300).
- Gupat Dortest, BCCa (217) LCT 037 9(TSTAT).
- g: Amrt Poods Co. Etc. = 2003 (155) EU+193 (†† €₩.)
- b) Construction PM 111 2014 (311) F. T.35- (11, 2014).
- iii Order No. Av (1000-11034/2016 dated 17.07 2016 CESTAT Abmonster)
- J) Enders in Driginal No. SiL EXCUSION COV 099-18-17 (cated: 28.03.2017) based by the Control e-Jonary Central Ended: Silvassa.

Appellant No. 4.& Appellent No. 5:

() The lower adjudicating authority has not dealt who the pleas made in written reply by the appeliants and judgments referred to and relied upon have been completely ippoled by the lower solutivating authority while bassing the impugned order which is non-speaking and non-tensored other tile had soluteballed any finding on the significant relies during persons. Teaching and have cooking and monthanically feative bass of the appeliant.

(1) The appellance made request for supply of acted upon occurrents so as to defend their case which were reported as Pera 2.8.1 and Para 2.8.3 of the impugned and/of. The bard reduces of appellants was not entertained and order net. Lear bessed imposing behalfly and morphy contravened the principles of natural justice. Writi regard to findings recorded at Para 3.7.3.1 and Para 3.7.3.2 of the impognet prior prior, appellants automated that more has not received soft copy of Kelled Lucin Documents. If RUD has been provided in soft copy then the lower adjustication are previous to record in this through the appellants is used by the appellants. Therefore, findings of the ower adjusteding according to provide copy of relies upon boom ents is cased upon the soft open the entry to provide copy of relies upon boom ents is cased upon the developed as the entry of both and the border of appellants by saying II all their request for hard copy of comments is only a Gleboy facility.

(d) The facts harvaloe at Pare 3.7.2 and Para 3.7.3 1 of the impligned order are vague. Appeliants is wayal co-operator, with the investigation and as per this availability and their summions remained present and her boyot proceed overly proceed availability and gave frue statements regarding his austress as they never induced presentations as they never induced presentations are described as per transmissions and gave frue statements regarding his austress as they never induced presentations.

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avestighting officer and a soluction of and encourse on SCN 1, which they neer isted despiration if the stocket diares/social selected from their residence. The parties of proof is laying an the operational Appellants deny at their residence. The parties them and all agatom more against them. Appellants referred to the submissions mode in detail vide them roply to 300 wee Para 27 and Para 27.1 and referred the same for the purpose of present appeals as it the same are specifically convased therein so as to avoid repetition.

With regard to endings recorded at Para 27,3.3 and Para 3,12 of the i vi in pagaed order, appellants submitted that the ship preaker from whom it is a tractthat appetants had incluged in clandashine dicarance of anto-meaking meterical Involving Guby of Re. 6.31 081/- have not admitted to this fact her any postumentary evidence even remotely suggesting that appallants were involved in planees, he pearance of the goods by the ship preaker as shown at Para 11.15 thin the SCN. were not produced by the department. It take is no excended wither documentary nee offerwise scatable of record regarding non-dansport of goods cleared on the ship. procket to sustainers of the appoliants. There had to be an evidence regarding, transaction of Rs. 20 21 944.4 Imputed assign on Venous scrap without receipt of the goods. The lower negotivating surnerby has not recorded any findings on this plea etand specifier is and completely innoved the same. Appellance effected to the susmissions made in petail vide their reply to SON vide Para 3 to Para 14 and Hata. 18 to Para 20.3 and recorate the same for the purable of present appeals as if the same are specifically canvasaed herein so as to avoid repetition. Ser.

The base of appeliants is not covered under Rule (25/1) of the Rules as 695 appellants has not deall with excisable goods in any manner whoseever. The size oparizer for penalty on any person uniter the said Rule is that allow he has accurate possession of any excisable goods with the knowledge or befor that the goods are (jel) eithy contraction under the Act of the Sules of he has been in any way. concerned in transporting, removing, depositing, keeping, on cealing, selling or surchasing or has in any other mention deet with any excessible pools with such knowledge to help? Aur isition of passession of goods is a physical act and so is each of the various wave of cealing will specify specifically mothemed in the rule. The expression fany other monner' should be underslood in succidence with the or hope of quasities general and would then, mean large event inside of physically dealog with the goode' as recognized by CHSTA1 In the case of Goord Boynd S. Mfg. Co. reported as 2002 (148) EUT 131 (T) followed in the cases of A M. Kulkarni. reported as 2002 (94) B. J. 573 (D+645) – Mutal) and Ram Nath Szigh reported as 2002 (151) ELT 451 (True- Del.)

Appellant No. 6 to 9:

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(i) the impugned order has been passed in a mechanical way without sopying mind and without considering worder is terrasions, without supplying refiel oper dow ments over without supplying the copy of statement. Appellattis were registered with Central Excise, Chandigorh I Commissionerate, Central Excise, Central Science, Central Excise, Central Science, Central Excise, Chandigorh I Commissionerate, Central Excise, Central Science, Central Excise, Central Science, Central Excise, Central Science, Central

di i Appellants I ad requested to supply Relied Upon Dopanients which inducts. statement of the Manager of Thensport Gerngany – the detail of statements of Misu New Joi Shankar Transport Collimentioned in the SCN Lasing concern with the allegation made adaptat the spuctance. It has been expressed that the department nse recorded sistement of Shir Maljunzi Solanki, Progretor of M/s. Cara Nanzki Road Cattions on 24.0/2011 and 08.0/2011. These statements were not momparated in the SCN. Appeliants and not been supplied vet the copies of the statements. Unbil and unless these copies are not supplied, the appellants are unable. to compose on the statements and Blase statements cannot be relied upon by the department for imposition of penaby on the appellants. There is no evidence in SOM of transport company showing the grade teopized by any etails from Appellart. No 1. No statement of representative of Bikaner Purriad Readings has been stated to be sepoided in SOR, it has been montioned in SON that statement of Broker Practice, Filipfa was forecast or 26.08.2011, however, the sold statement was not incorporated to SCN. No evidence in the record of the said hower supplied to spacilants showing at use said dearance. Copy of the statement incorporated in the SCN with respect to Backer Vined Phondar, has no bankers with the all egation make. against appoilants. For appallants had also represented to supply the copies of the sleten ents of Lockers which are vet not supplied

(iii) — I, has been alleged that appeliants were aproved in the statements that said purchases were made without cover of revices and that payment of the diendeshop removal was made by the (text appeliants (p) of predite an obtal by stap breaker, appeliants not received cash through angodia for such that transaction from the broken/ship preaker jointly. The facts stated in the statements cannot be believed as no person after 4/5 years can record statement and pain derify the track nur/ver, name of valler name of proker, we gol, exact riale of purchase made of transaction without verifying the record. This hall the facts marked in the statements appellants are it caregoneeily denied to have been accepted and agrees by this appellants and it (some to cells we that a privace can got such statement records without record

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(iv) is the appallants had in sworp a fidevil cleared the position about the comparing draum stances to which the statements were get signed without theng allowed to read, without tacts and electrostances number in the statements are not matching with the tacket position.

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(v) There is no single document supplied to the appelance inducing statement/record of borrer statement/record of manufacturership breaker statement/record of bar sponer, statement/record of Marine Boale statements except of gotting alsteneents symed in burry which has been statement.

É.с. Г The scanned copy of receive of the hansporter has been incorporated in SCM. to heli contain the particulars of the goods in dispute to have been received by the appollants that dependented feiled to supply evidence available with them man ().e. ecoid of Marithue Board. It has been stantioned in SCN II at some record of Maritime Board is not evoluble, endnes of mick having registration of Bhavaagar. O should be up the decision of ϕ is a solution of the state of the spectrum $f_{
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m e}$) and $f_{
m e}$ (s, for fto understand the investigation at the end of Marthue Board as he any documents. Only has been supplied to the appoint showing alloged standowing purchase. Whoth any excence on takens statements not signed that the opportunity purchased array inicitly without payment of Central Excise only one against such purchases bein payments in cheque and against payment of checkles the appointies received back the basis from broker(sole theakeds through angedia itom broker and ship breaker jointly. The statements without any such avidances gat segand through pressure tables in the same manner and same sight by payying and pasting the paraverbation which shows that whole of the investigation is lake and malmous and cannol be relice upon. \$\$~~÷?~

(viii) Not a single track/vehicle can dairy goods without valid documents as the diverticle from Asing Brishinger has follows. Sales Law Check peak of Culara, Rejaction, Halvaria and Porrab so as to reach appellants prendises. The investigation failer to discourge ones as a har not encekee the records of Mate Government Barrow situated at the array and with polar of rectillory of Cularat Rejaction, Haryana and Punjab. The department has not summaned the track overcetruck privation in these transactions.

(vii) — Onus to prove allegation lies on department and the department constraints the same to appel able without distinging its chus as held in following cases. -

- Rama News S Specs UC + 2000 (221) 111 (2078).
- Chandan Tobacto Co., 2014 (311) FUT 653 (T1 Ahren)
- Stwastseunternotional Ltd., 2014 (010) EU1007 (Lth., Del.).

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(ix) IL is well softlict law that statement of po-suppliant without any conductative ovidence cannot be made the eVe basis for imposing penalty on other ut-sphellams as held in the case of victam singh Dahia reported as 2008 (223) = 1,810.

(g) Show transporters who have agreed in the statements to have supplies the trucks for clandeetine removal of goods and some brokers who have agreed to the statements to have supplied trucks for clandestine removal of goods, but the SCNs were but setter to agree the such transporters and brokers, therefore imposition of perially under Rule 23 of the Rules is not sustainable. No investigation has been done at the case of metabolics, the appellants in the Honble High Court of Gujarat in the case of Metabolic for and Sceel incustries reported as 2015 (316) EL1 374 (301) has quashed the damatic and provides reported as 2015 (316) EL1 374 (301) has quashed the damatic and provides of the statement of variables of the appellants.

(x) Appellants had requestor for cross examination of Director of Appellant No. 1 (Appellant No. 2), Brideer Strict Precisep, Cupital Transporter Mos. Guru Nanak, Transport, Co., and concerned officers of DGCEI, All precistant, Neither, cross exemplation was provided not any reason was given in the repugned order denying pross examination and therefore the happyned order is table to be guashed. The appellants relied upon following judgments in this regard.

Codiem Pywoods – 2009 (243) ULT 688.

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- Copts Symmetrical to = 20, 4 (510) F, T 225 (7.1 -: Atm6.).
- Arwa Fibres Pvt. Ed. (2014) (2015) EET (22011 n. Annoli).
- Swadoshi Polytok Etc. (2006)(245) EUT 300 (cm + 260).
- R.V. Steels FVL Ltd. 2008 (543) LL¹ 508
- Hindustan Polyster Lines 2008 (306) 7, 777 (P&H).

(xn) The conality under Rule 28 of the Rules is impossible where there is confiscation of goods as field in the case of Snyam Traders repared as 2012 (273) ELT 463 (Tri. - Elei.)

(as) I to only encode available with the beawtiner thelesi up all in the incorgonal order is the statements of the soperlants. The appoints procerrent facts which prove that pro-printed statements were got signed without showing its contains to the appointes. The lower actualizating authority has not discussed the submission on these important tacks and passed the incorgonal to discussed the submission on these important tacks and passed the incorgonal to recorded within neurilas prove such lengthy statements of siz powers control to recorded within neurilas proved from the affidavit duty swarn in by all the devariable that the statements saved in the computer and records and time or problem of file, date and time of saving the the would have proved that the Ses in the consistent were proved and saved writin injugies may by changing the name of the paragonal matang the statement avainable.

Fage 17 \simeq 36.

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When the barge of parameters and other faces. Char order FTL Actions (sign align was requested to supply, the Proble Information of the Crice of BCCET informed that information/files are not evaluable meaning thereby that the files are detered to wash out the important fact. The appollants had high written completel to Revenue Societary to make occurry of the incide d.

(Mv) Six persons visited DOCE, office on some day to record the statements. If has been get recorded from one of the persons Shr. B.C. Chela that he had got the material denties network the his firm R.C. Gupta had duly received material with it voices as more cred in Para 10 of whitevit

(xv) In one of the firm M/s, B G. Cupta & Collibe module(a) of Similar, the relevant time was explicit and solite time of recording statement on 25,00,2012 his solution how was the sole proprietor. If has bear get signed from the legs, heir II allies is own everything, totak number tracte of braken name of humsported out, and he had get the material diandest holy. This isomprove that the whole solite investigation is take, vitiated and shady. Another important fact was mentioned at Sr. No. 13 of the Abidave that Marite Steel Corporation has get 20,315 ML material wave involve No. Ex 17 pa/AC 27,03,2009 (receil from Pro, No. 109 of Rial, Ship B eakers, Sosiya, Mang, on 27,03,2009 (receil from Pro, No. 109 of Rial, Ship B eakers, Sosiya, Mang, on 27,03,2009 (receil from Pro, No. 109 of Rial, Ship B eakers, Sosiya, Mang, on 27,03,2009 (receil from Pro, No. 109 of Rial, Ship B eakers, Sosiya, Shanker, Transportation, and the partition of the firm Tail Prastot is leged to have given the statement that the same Truck No. RJ21GA1975 wave used if on Plot No. 8 on the same date 27,08,4008 through same transport company without issue of Shasiye.

6. Perconditioning in the matter was altended by Shi6 MiR. Macorlatiya, Chartered Accountant on bohaff of Appelant No. 1 and Appellant No. 2 and reported the grounds of appears and submitted that the case is poosed on third party popuments but serious allegations of m(x, 0) made on the basis of the basis documents; that the charge of undervaluation cannot subshift due to absence of comparative overlances; that allegation of traudolona convet credit has never upon as nilled by a rivere because (1s not in the thet are rail transportation is not their outly and they cannot be penalized for that; that allegations of pendestne design ces are not convet as it is made one to third party documents.

4.1 Appelient No. 2 mas requested to see do no appeal on the basis of prounds of oppeal along with following further econ issions.

(i) Being only a thirts in an' termeon output and solid induction to may not be considered as "broket" as defined in the Section 2 of the Ashreet with the Gene st traves prevaling in the Market. The department has not produced any evidence that he traditions a twollbox agreement conditional how and usage what magnet no had.

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deat with the unit to help the unit for evolving payment of Certial Exceedery 44, alleged in the SCN

(ii) The dependent becault supplied onales of rates upon documents along with SCN shough he had requested for CD containing papies of relied upon documents is actistic meteric conduction in the productances that he could bet make effective defense ropsy. If the relied documents were physical coalable for refering the contentions as percended 4, the respective scalements of the respective particulation presentation presentation presentation of the strongly as the SCN had been issued only or assumption presemption grows will coll they, in aterial comparetive evidences.

(ii) All such contressional statements assertiate by the oper fright ward not alone to establish such diarges as charged. All such confessional statements have been recorded under the provisions of Actionity on the basis of the "Private Records" via seized Daries which was only pertoining to the business carried out, by him with such limited purpose the registers, private reports, mandament by Angaetas etc. These all private records had not been conclusiveled with the Central Excise records maintained by the Stilp Breaking upre Aleng as well as Not Re Kolling up to the approxiulus. Therefore, the insurance order deserves to be bet aside.

i'vi. The development has hise failer, to establish with material evaporate that by which track Not the stated dutable goods had been transported from the repletered. prenaises of the unit. In absence of this evacence, the charge of removal of the a that to goods without payment of duty lained proved. Hutther, the hading knowledge of so called clandestine removal of the pottacle goods for watch the behand has been contrained by the adjudicating autocally. The asiyad Distlas up to reterence had been written by firm only for his purpose only and not for other purpose. If he was involved in the so-called clandestine removal of the durants gapes, then such vehicle, namper and traight charges if any, would have been willien in the Dianes. Inc. particulars of we granent found in the written Diary were only "Notes" only which were writen during the recognition of the series and target with such required quantity of the goads by the seller /buyer. Nowhere, it alleged that the quantity of dut sole goods. under disputs had been actually sole by the unit protherway. The sale proceedings, can be orded when such name of buyer is there, house pleased base too such avidance out recard to the lacyers' had been taken on record. Therefore, it is clearly seen that he had not been involved in any way in the menorities provided inter Sub-Rule (1) & (2) of Rule 20 of the GER.

(v) From the grounds of appeal, no has proved that he had not concerned $|h\rangle \sim$ transporting, removing (as the removal of the solution durated goods had been taken place at the solary promise of finit, and no such evidence had been graduated solar. Violated

that he was present at the time of epiter (enoval) is providing (bothap no any plane for depasting the goods and no evidence to that effect has been taken of providing the department) keeping poling or purchasing (mass weres are not applied by the department) keeping poling or purchasing (mass weres are not applied by the department) keeping poling or purchasing (mass weres are not applied by the department) keeping poling or purchasing (mass weres are not applied by the department) keeping poling or purchasing (mass weres are not applied by the department) is reprised to previous sale 8 purchase on the applied of the matter of the department of the applied of 0.000 kH excluding the central Exclose involves in the matter of non-issactive of 0.000 kH excluding purchase only. The department has also not displayed any facts and provide matters (bet what amount that the adjudicating pulces of the first excluding pulces y without authority of the time. Therefore, it is proved that the adjudicating pulces of without author by of the 0.000 km and the first excluding pulces of without author of the time. Therefore, it is proved that the adjudicating pulces of without authority of the 1 as imposed per ally under Brio 2001 A (2) of the 0.000 km and the first excluding pulces of the fir

(vg) The selection "fisched transaction" taken base from the excitoulars allowed in the select Diaries cannot be proved when any construction ordened. The department had only made the allogation upon turn on assumption previous and not with accelerance were and every so called consignment shown in the workshoet attached to the SCN. The authenticity of recerts source from an previous maintaines by the unit. All such evidences faken on records were of only following the table records and these models on records "aken on records were of only following to exist a second second and the authenticity of previous faken on records were of only following records were of only following to exist have not been proved with any kind of Central Excise records via Daily Production Register, Daily payment particulars. Central Cledit Administry of an inspects that his policidialing activity has wrongly and without outherly of an inspect provide any posed on appendix that the policidialing activity has wrongly and without outherly of an inspect posed on appendix.

(a) the adjussions ownerity failed to give rule response to the variaus case taxis diled by him owning the course of deciding the SON. Therefore, he equilated to the and case taxis which are such any applicable and proved to consider the same salas (blue ognimers right may not get domaged.)

(vir) In short is is to say and submit if all the present case has only been inade only or "Averaging on Prosumption grounds" without direct concourative extensions which were maintained under the Central Escisic Law and in adsonce thereof, the charge of plancestime rearrowat without payment of duty is not et all suste nacto and accordingly the is also not taken for escal action as the present case loss been both up only on "Private Records". Therefore, the imaginal order deserves to be set aside.

(a) So far as the present basic is concerned, kind attention is invited to American Bipproximing to the duby calculation of the prancestine removal of finished pools up, out any tread plates, waste and ecarp of her and Steel products prepared on the basis of the seized Dialies. On going through these Americans, it is found that the so called sempsitables of her and Steel product alleged to have been cleared deplets make the various as rolling units/furnace with and parters to that offer

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have also been distillated under column No. 3 of the said Analex, 6. But to such records are evaluable in the SCN tastillageoing such inquiry bad been configuration not.

(x) In addition to this, more and no statements of the concerned persons of the concerned units (re- orling units/Fumace units) expeats to have been recorded. Thus, it is dearly found that since there is no correbonative evidence regarding the record of the soleated clandest no composals. Bus, it is elementary proved that the units are composals. Bus, it is elementary proved that the units of clandestine removals. Bus, it is elementary proved that the units of clandestine removals of the duitable gades under reference is not subtainable. Therefore, he was also not transfer for penel action as penedated to the informed order.

(a) The main issue came into an record on solaure of private noto book maintained by the appeliant for carlying out business in as much as appeliant has obayed limited role to require exclusible goods. The epigetaic had every managed to availability of the requires exclusible goods. The epigetaic had every managed to the applitulate of velocies and no evidences were on record that sale produce for the disauted consignments were matrix (histigh expeliant. No many liew back has been provide for the integrated or application and on the party overlapped without borneliation assumption and on the party overlapped without borneliative evidences. The lower experisions are unabled to applie to analyze the charge of connections of excludicating authority failed to analyze the charge of connections of excludicating authority failed to analyze the charge of connections for the respect to remark the exclusion of exclusions of connections are applied at the exclusion of the party overlapped without connections are denoted on the exclusion of the party overlapped without connections are provide to the lower exclusions are applied to analyze the charge of connections. The lower exclusions are applied to ap

4.2 Personal hearing in the matter was allended by Shif M.N. Vadecarya. Chartered Accountant on behalf of Appellant No. 4 and Appellant No. 5 and referated the grounds of specals and autimities witten P.H. subplas ups weleiting as to why penalty under Rule 25 is not impossible on them. This he reducisted to set aside the constituit imposed on them.

4.2.1 Fig submitted sectional written such salars harrising as under -

(i) As per Para 18.3 of SCN, Appellon, No. 4 & S have broke ed dandestine operance of goods by Appellant No. 1, whereas in conclusing para 18.5 and 18.4 or SCK, it is alread it all appellants our milled the ottence of attalemant in making talsa involces without delivery of goods and bessing on fraudulent sector disvit. It is bears evident from above that department is not a transformer appellants were dely involved in so called fraudulent transaction.

(i) Mently a fact that two trochors living in a same house will like i parente would regard that they are conducting more basiness together. Appellants have clearly

mentioned and revealed their brismess lacinity and tool lifes bound underlaxe. Lusiness jointly, Nellier SCR has impligned order continue threaters and therefore in structure impose penalty under Rate 20 of the Rules, it has to be clearly sourt out that lifes bod preved different more indepartment of each other.

(ii) The only solutiled evidence for alleged plandestrie reproval a seized diaries. The invoc adjudicating autoority has ignored the submission of the appolants that many entities were estimated source of the goods, ying at various didts of 5.00. Breaking Varo, it is not denied that the adjudicating autoority lies aswer to not to addep, the submission full that can be done troops it a responde and speaking order. It is surprising that the lower adjudicating authority lies before and speaking order. It is surprising that the lower adjudicating authority lies before easy of an easy of a source dates in diaries will those to storage before as combination' How can matching some proces in reports soloid from the source person can be considered as (a) (4) station?

(iv) Penalty can be imposed under Rim 28 of the Kulos only fills posen (nowingly deals with any goods which he knows are listle for publication. That appellants had rether publicated non-leak with the goods knowingly that there were lighter to contriviation and as such no poleitly is impossible under Rule 26 of the Rules. The appellants had nevel in anaged aupply of goods clandostinoly cloated by Appellant No Fills along the mere in anaged aupply of goods clandostinoly cloated by Appellant No Fills along the interview of a gain by arranging central excise theories without physical delivery of excisable goods and there is no such discussion to SCN as well as in the impogned other. The appellant refer on deals(0 in the basis) of Nagpor Aloy Castings Limited reported as 2002 (142) CLT \$15 (SC). The objection relevant will the lower acjudicating authority all Pava 3.1x.2 to 3.13.5 and no.

4.5 Personal hormp in the cratter was aller the by Stöhn Rakost K. Shabi, Acvoltate and Salyanarayan. Productor of Mo. John Eal Madan Coost (or behat at Appellant, No. 3 to Appeliant No. 9 and reference the grounds of appeals and submitted that course of elatements relied upon in 06 SCN word, not given to thong that represends of elatements relied upon in 06 SCN word, not given to thong that represends for ansatzmaniation of persons, who made statements not granted that go CBEC has represented units in Tara 14 Static GBEC Conden No. 1920(2):2017 CX patient 10 3 2017; that Stri Sanjeev Gupta in 2009-10 was electropic going account and get proprietorship only to 2014 after down of the father, are Shi R.C. Ouples, that his statement were represended. By DCCEL Attractional on some date because all statements were pro-prieted/typed and only signatures were off-action that he Bans and cheque datate given by DCCEL at how have they made the psychetris to brokers in orderate of engents given as to how have they made the psychetris to brokers in orderate of engents given as to how have only made the psychetris to and there have been contractions in statements as obtained as in the large the paties. The Short and there have been contractions in statements as obtained in Para 11, 12 & 13 of avery a re-

Afficave deteil 2017 300% that their appeals may be allowed in view of above facts.

<u>Findings</u>: •

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5 I have reacturity for all rough the facts of the case, the motymed order and written as well as oral submissions made by the Appoltants. The issue to be decided in the present appears is whether the impogned order, in the facts and circumstances of this case, confirming comand and imposing penalty is correct or otherwise.

5.1 Appeliant No. 1,2, 4.3 o filte appears adyend acrost of 60 days but within further period to 53 pays by stelling reason line, their consultant was busy will work related to adjudicating proceedings of various authomics; that their consultant energichartened accountant was busy with work, related to reply to untiple of income tax reconflicted to demonstration of currency and statutory auch nationalized hanks as well as might on and consult of 00 CST work. Since these appeals have been field within further vesice of 60 days as presented under the Art, incomposite delay a filling these appeals and process for 0000 the appeals currently.

3. I find that the officers of DCOAL Anniedsbac boodfucted coordinated searches at the pieces of largeled brokers and transporters from where various for minating documents, the mands, tids, loose papels, computer per drive, etc. and only montate, broking / trip registers etc, were recovered. Further, searches ware also conducted at the cromises of ship procking units and colling, gifts

9.1 The oppellants have submitted that copy of other upon accurrents were solutioned to them. I that thelighe experients had also heads such contention before the lower adjudicating bothering who rate Pata No. 2.7.2.2 of the improved order held as under:

As regards the request to providing tops of PDD and Annowing Theo Holhay and for any own of the DD Bark of severing submanished for centre of heading. Annow the own this present is near manimal during the centre of submittedian. The Manage No. 4 & a near net clansed that OD containing MCD Lave net both received by takin they want the the number Computer intent and Adminishing Barkwere and were storing their owth in term and part difference to both received by takin they want the term of the story when intent and Adminishing Barkwere and were storing their owther to reach their suppression and therefore, it were only for any of their term to make there suppressed to the other completing of received Adminishing to 50% of story available. The diate of non-marked to receive of their to make the story available. The diate of non-marked to receive of their term to 50% of story available. The diate of non-marked to receive of their terms to 50% of story and the story will be available of the story of the story and the case that the story of the feature of the feature of the super of the story of the story of the feature of the story and the case that the story of the feature of the story of story will be also and any or the terms of the prevence will have a story terms of the story any of mean the terms of the plane of these and the story of the story any of mean the terms of the plane of these and the story of the story any of means the terms of the plane of these and the story of the story any of means the terms of the plane of these and the story of the story any of the story of the terms of the plane of these and the story of the story and the story of the terms of the story of these and the story of the story and the story of the story of the story of the terms of the story of the $S \sim N_{c}$

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Adjustivation processe in the galaxe of natural pasts entitled the to provide notain soft supplies outleacen compliance and my this work in received support from the derivation of Hamble High Creation Californian et Abelastan' in case of Considerations of Cardini Excens. Manual Vis. Parmarch den Eve. Use (2010-(11) DCN use) (1446-16).

5.2. I time that Para 24 of SON databilities 03.0013 clasify sisters that the documental relied upon are listed to Annexure R to SON and popies. Thereof wherever now supplied earlier are other enclosed or would be made available for inspection on demand. In the face of facts and circumstances discussed above. I find that costenitions of the appendictus to have not receives costes of RUEs collarchicities (edit).

6.2 It has also been submitted that the adjunctions and only while passing the impligned order has completely ignored the submissions node by them. I overver, the find that the adjuncting outbority has stated celoited defence submissions of the appetents at various sub-bara(s) of the impligned order and a spunde/formated his findings.

(find that it is on record that before recording II e also enough Appellant No 2. на (Director of Appeliant Na 1) is Loydsnoos in form of documents resovered from life. prensises of Appellant No.1, S. 4, & S. end transportors allung involvegation, were placed before fund the die had seen Parkfinisher grewe at the previous of Appeliants No.1, S, 4 S, 6 and at the premises of votious transporters and the statements given by Appellar , No 3 and Son Manual Parel Accountant of Appellant. No.3, Appatiant No. 4 Almane various benaderless and angedias, the benefitibled given full opportunity () nature the same tentro gring teschicity about the masturioss and conjectures thereof, it is seen from the statements of Shri Marich. Patel Accountant of Appoliant No. 3 that it eldocoments were in the form of diaries. nambridged by Nor for one on schaft of Appellant No.3. Thus, Appellant No.2 Was given sufficient appartunity to examine polythemistly evidences only corrected by graties journee continents from Appellant Nr. () and his accountant, as well as Appellant. No. 4 & 5, hansporters not angedras. He was also shown unnexure precated on the pasis of mydsligation conducted in respect of reports second from Appelant No.1, p. 4.3% and transporters showing the details of the transpolions canied out fitter.(b) Appellant No.3, 8-8, 8-19 Appellant No.1. Think that from the documentary evidences. vizil seized diary of Appellant No. 3, 4 & 5 and statements of the anagadias and transportars, it is proved that respectant Null' frequencyed, the graduation pain of path at Appellar: No 214 A sustantics) note as well as fraudulesity asseed on CARVAT CARCE. by lessing Central Exclave Involnes without actual supply of excisable goods. These transactions also talled with the seconds of Apoptiant No.5, 4 & 5 which are contendent of the moord of involves issued by Appelent No. 1. Angadias and

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tranactives election if averages admitted transfer of cash amount as well as expected gape's. These are subvantial evidences in the form of coolinvatiely and oral (Mostles) (Direct) These are subvantial evidences in the form of coolinvaties (Direct) These are investigation has comptorated vertex extension with Appellant No.1. I find that the investigation has comptorated vertex evidences and established evidence of Central Excise duty and fractulent posting of Central Central Excise of Rev19(0),60% as detailed in relevant Amount (s) of the Show Central Excise of Rev19(0),60% as detailed in relevant Amount (s) of the Show Central Excise (central Excise (central Excise) (central Ex

85 t is an record that SCCEI proved the putternitary of records selecté right various transporters and Appellant No. 3 to Appellant No. 5 and duly componented. the social with records seized from other premises. Regarding contend of duty based on booking register of the transportant, notes been contended by the appoint that devertiment has not and used evidence with regard to quantity of goods and targer of the gends. They have also subset question regarding auther fully of the register. mandaided by GMB at the gam of ship Lieaking yard. In this regard, if and that did of G57 mitres found in the booking register of the transported except for 27 entries. Accellant No. 1 had aspen messes if has fault entities of the booking register is beyond doubt During (Wesligston, settement of Director of Appaleo) No. 1. (Apacliant No. 7) were recorded as which the failed to anyticle copy of central exciser involves in respect of defails of plearance mealibred therein and admitted to have cleared groops without issue of invisible. Reparting register maintaine) by it e CMD. al life gale of ship braking yars. I have the such register provides corrobaration evolution to establish that the prock number premioned in the booking register of the Usuaballer actually entered the premises of ship breaking yard on the given date and $\sqrt{2} e^{-N_{e}^2}$. time. Though a bas each contended by Greispaellen, that the suck might have good to some alber old for leading. They have not chatering the tast line to the after finalization of deal, the tracks are engaged, in order to save money perforing to cancellation of booking of husk. Therefore, there is no doubt that both the registers, v \pm booking register of the transporter as well as register methods by GMB are: authentic. Regarding buyer of such goods, 3, a seen that the booking register does not alsow that e-of-life bayer. If shows only destination for which track was mind. Bus setted, aw that in cases of planteering removal, department is not recycled to prove The case with thetherealized precision as held by the Apex Court in the case of D. Di commul \pm 1985 (10) ELT 1546 (\pm 0.), where nin was herd that -

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C1. The siner cardinal priority's device we improve a weating on the weatered or enables of the other sufficiency and weight of the underice to be considered to use the warms of Lord Manufeld & Blanch & Archar (1774, 1 Chap 43 of a 56 Neurophysic the Proof when II was of the prover of the side to prove and in the cover of the other to have contract dod? Show it is exceedingly difficult. I can appoint it reporting for the contract dod? Show it is exceedingly difficult. I can appoint a reporting for the contract dod? Show it is exceedingly difficult. I can appoint a reporting for the contract dod? Show it is exceedingly difficult of the appoint of the type contract dod? Show it is exceedingly difficult of the appoint of the type were to be apprecised, it is not compared to only a memory public for a provident to approve to the apprecised, it is not compared to only a memory public for a provident to the the terms of the second to the state of the terms of the terms of the terms of the terms of the approved to the apprecised, it is not compared to only a memory public for the state of the terms of t

S 8 fund they the department has applied enough evidences to establish that Appollant No. 1 was engaged in dandest re-removal of the goods and thermore, the base laws dited by them are of no hold to them, as tab's of the present case beauty andw ovidances the: Appelland No. 1 was engaged in execute of dusy by way of dances he removal of the excisation goods.

7. Regarding decising of duty on the basis of dianes receiver to http://www.Shiji Energi Marbamba Shell, Shi Vince Amershiphai Patel and Shri Kishore Association of Fatel, it has seen contended by the appeliant met the demand made is the besits of follo party documents is not sustainable. I find that in the dianes initiatives by the brokers, list as well as illight transactions of the appellant site recorded. It is mutil that in case of many such transactoris, invoices have been issued by the oppellart. Thus, the authenticity of the diarios and other strongs recovered from the erokers is established. Further, the brokers have admitted by Lavy repaired the goods from appellant, without theorems and sold the same without invoices. They have also comitted that is many cases, in order to pass on Convatcredit traudulerary, they had supplied unverse to one party and the goods of their hybice to another bailty. Thus, the case is based not only on third party popuments. aut duly correctionated by other expenses. The Director of the appellant experience No. 2; has not furnished any set stactory explanation to respect of details evailable in the selded divies showing premises of the appellant from where goods, baced and could not produce corresponding contral micise involces in this repair. The statements have never been retracted by Appellan. No. 2 and hence have evidentiary volue. The combined offect of all such ovidences reflect that the overand aes taken place and Apastiant No. 1 to Aspectant No. 5 have incluiged themselves in such duty aves on. Hencal in this case thim party evidences backed by contessional statements of brokers are admissible. The contention made by Shti Marret, Patelli wele confirmed by Shri Bharat Manhadoral Sheth and they never retrocted their statements, it is an report that all transactions were recorded in epitetee and coded. mannan, and the case was made but after decipienting and the utiling if a same even when Shii Mitad Amarshibha: Pates and Shii Kishar Amarshidha. Patel ato not cooperate during inquiry. Incloransachesis reparties in claries and storage devices, seize Lirom Shri Bharal Merinerchai Sheth and Shi Minod Amershipha. Pele and j

Shi Kishor Amarshidhui Pavel were forther combiorated with relevant records. These are rate and caucial contendos as one the Indian Evidence wer, 1972 and are sufficient to prove the osee against Appellant No. 1 to Appellant No. 5

7.1 Recarding allegation of gagenvaluation is assissed opphanced that the rates quoted by MA. Major and Minor as well as other agencies/persons are not actual. rates prevaling slicing that period. I find that ship three receivers and brekers subscribed to orbitations issued by variage research agencies in order to ascertain prevailing. market arreaded as to enable them to transaction goods, being conducted by DCAP: will waked a marketing research agencies revealed that day to day pdp of "Amin size of plate is atmost opurvalent to average pince of all size of roting plate. with the range of 8 parts 25 print realso find that statements of various arged at were recorded, wherein it clearly transpired that the transactions in unaccounted. cash was and above the involte value (cok place. Thus, department has proved, readipt of reading sweet and above involve value. The prior adopted by DOOD-Listre (ed. upon by most of the solo breaking yards of Alang and the goods ence ging out of breaking up of ship are sole at about the same price. I find that in order to be just and tair, the investigation was also ellowed variation upto 2%. In the price published by 575 Major app Minor. I find that it is not a case where they back or money or speeps of consideration over and at over shy de velt elie not established thowever, in a case, where assesses/appeliant has included in clandestine clearances as well as unde veluation of the goods produced by them, no one can establish one-to-one correlation of godes sold and payments received it ideals or through angedia. Firmy 90.0. If la stiff 00 fly proved from the envies in the doines represented from brokers. that used transactions took place between values to ling million many units and Appolant No. 1 through prokens (Appellarit No. 2 to 5). Therefore, 3 indicat, the rejection of transaction value and metacement of the same by the prior prevalutions correct in view of Veluehop Rules as well as Section 4 of the Central Excise Act, 1944. S. M. S.

7.2 In view of above, "Find that Appellant No. 1 has evaded payment of Canual Excise duty by way of clandostine removal of goods as well as by undervaluation of the goods and heat fractitiently paased on Certival Credit by issuing Certical Excises involces without actual supply of the excisable goods hence. Hold that the order of adjut caring authority is correct, legal and proper

Section 11A(4), of the Action is natural objectured line, the confirmed does are required to be partiallenging. Interest to applicable rate under the provisions of arised to the Partial Previous And by acting in this manner, the appellant No The soble for actionally equal to the deby under rule 25 of the Rules read with Section 31AC of the Act

ĺ. Appoint No. 2 has converted wat the invertiarly disaling autionity fated to catattish as to how has no abhied the sc-called evasion of Central Excise dury and If us, strongly mansed penalty on \dim under Rule $2U(1) \otimes 2U(2)$ of the Bules (1) \dim that the letter of this case have magnite that he was the Key person of Appendant Na-1 and was dearby anyoned in claridestice removal of goods as well as trackle entiscieply of cenvalable involtes without physical definely of goods by Appelond No. 1. and in uppervolution of the exclusible goods in an dataset of and closers, by experiant No. 3. He was locking after lidey to day functions of Absorbing No. 1 and need concerned transait to all matters related to the excisable pones including manufacture, storage removal, transportation, so ling of list such goods and Lence, was knowing or had mason to believe that those goods were lisble to confiscation. under the Contral Excise Act, 1914 and Rules made divisionment, I, therefore, And that imposition of ponalty of KN-44000,994-- and ponalty of Hs-1,66,0834 open Appeliant No. 2. Inder Hyle 26(1) & 25(2) of II e Failes is potiect, proper and justified. The constitution

3.1 Shri Di atal Manhabhai Sheth (Appollant No. 3), has contended that his (3)was limited as modioman and be was not concerned with the goods and therefore, ponaty is not impossible, to or how, to this, equal, 1 find that as admitted by Shri-Marrish Fale. Le was the key person who arranged for protuining goods from respectant No. 1 without power of Contral Excise Involtes and get them supplied without cover of involve. He and Accounter, (under his instructions) recorred all. these transactions in his diary, which contained data is or each payments acrewed. and stade to responsive parties. He was the person who shoplied Bills to some using units for facilitating availment of haudurent Cerval predicted supplied the potes to some other units without any Central Excise involves and his role is very elaborately. discussed in the Show Gauss Notes and the Impigned shiel and the elvie, he commonly clear that his the was limited in fact, I find that his role was provation the whole episode of clandestine removar of goods as well as facultating traudulant. availment of cradit. Therefore, I find that consity of Hs. 39(38%- impoved on him. under Brue 75(1) of Central Excise 15 (He), 2002, a correctly imposed and there is no reed to interfere with the order of adjuctourng authority.

8.2 Shi Minod Amershiphal Patel and Shi Kisou. Amershiphal Patel, provers (Appellant No. 4.3.5) have contended that they have not deat with the goods in the manner presented linder Rice 26 of the Contral Essage Rilles. 2002 and therefore they are up)t flattle to penalty. First that the placy resimalized by Shi Vigos .

Prgr 20 ct 74

Amarshibhai Pate in decot language contained details of licit as we' as likit descances by Appelant No. 1. When asked about the entries in the diartes, be gave evaluate replicallike the accounts were imaginary, he was cratiting accounts on Sandaya, e.e. He neve operated will the investigation however 5000H officers got stelleded data decoded and the waste capital of clandestrip removal got stelleded data decoded and the waste capital of clandestrip removal got stelleded data decoded and the waste capital of clandestrip removal got revealed. The decoded data metoher with the data methad and the operated with the data interactions remove got stelleded data decoded and the waste capital of clandestrip removal got revealed. The decoded data metoher with the data methad in the operated term and in case of some transactions no. Contrat Excise involves were issued and no Contrat Excise involves were issues and no Contrat Excise involves issues and in the contrat Excise involves issues and the contrat Excise involves issues and involves involves and involves involves issues and involves involves issues and involves involves involves issues and involves involves involves invol

Also Appolant No. 4 & 5 in Itle's submissions argued that they have not been induiging into clanadatine activities but accounts forme in Pan Dive/ Computer were written for Herming accounting/software east i also find that may were also inculged in accounts from Pan Dive/Computer were also inculged in accounts from Pan Dive/Computer is concerned this argument of learning accounting/software is concerned this argument of learning accounting but an alteriative get out of club failing. It is a notiong but an alteriative get out of club failing. It is a notiong but an alteriative get a written in computer desktop or active and the argument of learning accounting/active is notiong but an alteriative get out of club failing. It is a common practice that any software is to be installed either in computer desktop or active and software. To do something special with intent to only law in such a way that no one can indov/Select at tals stage short the data if is a practice to preale records in Pen Drive to avoid detection from the computers. The constraint of data matching accounted by DODH with the cale evaluation Pen Drive is neither an inacter or a co-incidence.

3.4 Appellant No. 4 & 5 also argued that they had given resplanations for the decoments to the investigating officers burning isearch each. It is innihibed, that Appellant No. 4 & 5 had not co-operated with the investigation and bad given evaluate replies at along. Therefore, their role is very indom covered under Role 26 of the Rules and penalties of Rs. 6,04,0314 for abaling Mapellant No. 1 in clandestine bierarchies of the excessible (pools and Rs. 1,56,0634 for shalling Appellant No. 1 in clandestine bierarchies of the excessible (pools and Rs. 1,56,0634 for shalling Appellant No. 1 in clandestine bierarchies of passing on Cenver Graph by issuing Central Excess involves only vibrout strystost stroppy of goods imposed on each of Appellants by the adjudicating authority and an Rate 26(1) and 26(2) of the Rules is mopen and there is no need to her fere with the same

9.5 and that the tack of the case are distinguistable from the judgments relied upon by these two epidellants bestruct as the documents resumed, analysis thereof, and data storage devices have been conclusionated by the statements of Appelant fva.

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2.3. Stri Marish Hate. Accountant of Appellant Kollo, statements of Appellant No. 4. 6.5, statements of transportors, anglatic and recretes 31/aired from GMD authonics, and the statements bave never been received. The persons involved in this case have deep y robiituled, stranged and managed attains of depitastice dealarces made by Appellant No. 1. The mental owing case, area relevant for this present case.

(a) The slavements of the additate of refracted, the same is legal and valid in too eyes of law. And the same can be considered as comploantive evidence and no future: evidence is required. The above has been held in the cases of (i) Narest J. Sumawan (2006) (63) HULCSS (SC) (i) Rakest Kantar Gurg (2016) (001) FULCSM 100 Eehi]

(a) That the admission of contrastor is a substantial nace of evidence, which can be used against the maker of it as been field in the cases of it) Alex indextnos (2005 (200) 073 ELT (Tru Municeu)] (it) M/s. Upper Solutions (200) (200) HTT (TTU Sherbar() (0) M/s. Karon Hogg. Works (2004 (168) ELT (Tr), Delhi)]

(c) Statement at director and subscript paramits of essesses admitting clearance of goods without payment of Central Excise duty and without issuing Central Excise involves incurpatory and specific and never refracted after on is admissible as admissible as half in the case of H. Teoli Abrasives Ed., eponed as 2017 (348) ELT 608 (Tri, Eet.)

The denomination consideration of the facts and oncommunication to sufficient shows it. their the interaction of Director is the basis for the homonal line distances is Sectorory and a sective. The Checker analy whether that we downwe countedrenews necessarily the office encounted details of accounter of the preferration as well as also range of instance goods with and wanted cayment of orda. Has fact a further sportgioened by the observation that many animas in the physics occurrents. are example by the involues based for the assessed on which only static's paid. The Director has devely exhadled the home of the strends of web or development encounter of goods prevaled by the enview in the private potebooks which are not prevent by me involves. Such statement is admissible as underved as hus been here by the Apen Court in the case of Systems & Components Hit. Ltd. (subtail, the activities of classical values is required to be conved by sufficient positive evidence. However, pre bady never ed or each collicitet case we required to be evolutioned and exercised indecendency. The decentriest in this case has relied upon the confessional statement of me Exector which is also supported by the mentioned. controls to the pervate records. There is no assument that the statement has been never webe stares. The rescale also press the appear to have adved for pross. we have been and the process of a finite source.

35 от лиж област (структир 2 кол 160) или 160 или 166 составляется сёдорога) для сотой б разбор (на сенестные Чинен с структур) полобот с сбластво толоской с состав. При иссле 260 statement от Эли Заруку Кертей, ест с коло и на Пен есбор (с структур).

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The objects natively recovered bus per book recovery if stands admitted by 25.4. Telefaet. Director educe the 2006 of the products of one priorite additionity. Consequently, 11nd op reason to disalley mis provide address y

16 The evidence of clanarising contains has occurbed all contracted only as a mark of stractingeneric velocitation of the decontract. The evidences uncurred by the acportance are velocity decontract, and taken for the part velocity decontract are set to add the part velocity from the set of electroses of coppression of total from the department and contractly the contents parts are barred of velocity to contents a part of the velocity of total and the set of the decontract of total from the department and contractly the contents parts are barred."

(c) The paracy on director of company is imposable, when he was directly involved in the ease of 0.5. Singhvire ported as [2011 (271) ELT 16 (Sig)].

(e) It is secled legal absilian that once a case of clandestne removal of accessful goods is established as has been durin the instant other case, it is not accessary to prove the same with mathematical precision as held by the Bonfako Supremo Court in the cases of (1) Shah Gurban Mathematical established as (1983-(13) H 1 1515 (SO)) and (ii) Astical Textiles (India) Fyt. Etd. reported as 2009 (205) EUT 537 (SO).

8.6 In also may on the decision in the page of Haliyana Steel & Alova Edinepoted se 2017 (S55) ELT 451 (Trill Dell) wherein it has been note that insteadows (dianes) served from the observation of appellant's employee at the time of search showing writtes for accounted as well as unaccounted goods which have been top a not in detail and disclosed by GM of the factory faily with theologicale pages. Is it talwortby) that statement of employee containing detailed knowledge to be considered as reliable. Take roly on the decision in the raws of Ramchahara Rooms Public technic las 2014 (202) Fill AG1 (SIC) where a similar view has been adopted by the Hon'Be Apex Count.

8.7 and of the view that admitted facts need not be proved as bas been held by CLS(A) in the bases of Alex industries reported as 2000 (200) LLT 0073 (Tr). Mumbel) M/s. Divide Selections reported as 2006 (206) -1.1. Divid the (Chennaig that Coafessional statements would held the field and there is non-reported as 2006 (206) -1.1. Divid the description of the case of M/s. Karon Herbiel CHS(A) in the case of M/s. Karon Herbiel is substantial as 2006 (206) -1.1. Divid the case of M/s. Karon Herbiel CHS(A) in the case of M/s. Karon Herbiel is substantial as 2006 (206) -1.1. Divide the substantial for case of M/s. Karon Herbiel is substantial as 2006 (206) -1.1. Divide the substantial (186) -1.7. 273 (Tr) Delth has also held that Admission (Confession Relief as 2006) (206) -1.1. Therefore, Appellance reliance with validation case to used against the maker. Therefore, Appellance reliance with validation cannot be made applicable in light of the positive evidences available in the case as discussed in the hirdings of the impligned orbot.

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5.5 In the CESTAT in the case of Mist NIR Sponge P111 reported as 2015 (326) ELT 453 (Thi-Sol) has ball that when Dieconde area of probability was against the Appellant bleading of the statemente recorded from buyers, no excess electricity consumption found, he have material primitias's found or about red and no input output rate presented by law is of no use. The relevant pertain of the decision tyreproduced below.

10.1 Reserver of the loose sheets and used willer believ from the presses of the Accordence to the country of several content like entries, therein as representative of the charlestooly reaction provide which were with within the homology of the Acceleral wolve revenued or Appellant in that regard space in exactly fine many malanala wara ta tha annach of the Armadadi. It is damara a waran mat ma managais алага анду то выс разывание чинный нен собу рузонного бу кат нас усслое алартары. Чалый нап іх выз меньом на Чне соліталя Валат Цаілаз да 1953. in which we methods the movements of characteristic of a second second second second second second second second lion and 997,555 Million seen geody respectively and explained by AppaVaul. They and preved conversions contains of 21 010 MT of Delender by the Appelled State 1979-776 Asto follow official from the central sector from the persponses Mat. Devocation Root Carpers and Well Strong Deachnes. The materials resourced from reveau news brought and the evaluation of characteria reveauat of 99,180 MT of Strongs. irow and 55,055 lift of such goods respectively. These energy was interanbanana'na by Busen meninal. When contain entries in the period termediter. Nelfor conditioneds for Centres Contre Society and other equips definit metallity. Bu uninended entres, because leavening of characteristic removals not supported by where a Accordingly, such alcorations became subject maner of elegeneric research or removal of EV 6260 MU of Spange trac without expenses of Palane buly. Similarly, the conservations encoded and solved provide matures of excitable grade entropy ุกษณะกับขึ้นไหว 11 ให้เหตุละเมาเกิดกับความขึ้นแรงที่ได้เป็นสาวไม

10.3 A meet to the always <u>the description and the description without allocate states and the tendent without and the description of the descript</u>

20.4 <u>Descence of polyholders are populated and Appellant Handrid of an Appellant Handrid in a linear two excess a south Ny popport flag (and the appellant for a south Ny popport of an appellant for a linear two excess a south Ny popport flag (and the linear two excess a south Ny popport of an appellant for a south Ny barrier and two excess a south Ny popport of the south Ny barrier of an appellant for a south Ny popport of a south Ny barrier of an appellant for a south Ny barrier of an appellant for a south Ny barrier of a south Ny barrier </u>

6.9 Further find that the Horible CESTAT in the case of M& Howman Kitmer A.

tion insported as 2019 (SVR) FLT 220 (in Del) has held as under:

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23 Wohntony conference were which is repaided after the yours influent only tools low to keys to stand. No new local here bothe on record to justify reincrited where key were purel consequent upon textersion and where but Ashive Element sentenences statement for the She Research America American sets when sensible the She Halanaan Sumin alaaladaya segari ay Chadendalas dist resumed records were com minima in provides and line loces and not to feld powerse of tobacco is accury Alberlin wyśś we próduczy ous to the rask that searce a record and howey references to the provides, also has no large as thate facts were on recent and show our cluster year and advalp commod dive differ an excited following serie and in the instagra-of (2nd externant deep when a gap of feer received. Groce average is accorded and all where the set is the manufacting transmission in the factor of the set of the frees in research Merrider (address)'s containing part from while our conselly areas realing to procedure of the Monarials and manufacture of more question of the 25565 253 TAMARATCHINE of grads in feel once an everyout s people commend and "Here which existence in the durances shright, on material these proof of "Here exhibites "Court haudinent mouths avaids in coordestad and when each weat, proving austrove and by other activities which are durine orded, will be giving a horizon to the exponent An pert Superman Grant's justification in G . Showing $i < 1.380~{
m phy}$, $E_{\rm C}$ () 1646~(2.0) when Dependent is not required to prove ∞ case with mathematical previously like what is required in the establishment of such a degree of propability. 21а) а доворні талі тар оснозіволі і бонтиські бір сиклоног на блазкі (нінні челькі)

8.10 3.106 that no statements have been retracted by one person and facts recorded in Panoninamus and contents of source items have been accepted by Appendent No. 1, 2, 3, 4 & 6 in their statements, it is not a case that a single statement. Tak Leen recorded and refed upon but various statements of Appelant No. 2, 3, 4 & 5 establishing clandsstine removal of final products by Acpeliani No. 1. In the cisumstances. I amolithe considered way that the statements recorded at different time and or different persons are nel received up to receive an invest. Haves at the elatements have been independently combonated by the facis and contents of Handhnamas recorded at the time of search. Incretore — ast of the well-considered. view that donal is pressionable to by equillosting sufficiely ones not viceo. principles of natural justice in the given (acts of this case, My views are separated by the Honfale Sombay High Courts judgment in the case of Mis.Sitesod Randes. Sargle reported as 2017 (347) EL7 413 (Bon) wherein it has been here that where directors have themselves admitted the guilt and statements have not been retiacted, there is no guestion releases exemiser on any Sected of same does not to give use to any substantial question of law. Relevant partian of the jacgment to reproduced Ipelson -°‱∽_

3. The fir burel recoress following reason.

3.1 As imparts the tenth of stors coordinates of the Horis and the Astronomic Verlag and whether the sounds that the control any projected to the opposition is seen from the recently that the control and on the origin records were considerated by Surf Ranges Shinem Sergie. Funder of the Appoint run and the transmitte Sergie Treprete of the Ambien Sergie Werehold through when the consistent rections about the Ambien Sergie Werehold through when the consistent rections about the series wherein they lost wouldn't not the consistent rections about were evowherein to the component provincies produce of the control and generic to the component provincies produce of the control and generic to the component provincies produce of the control without accounting and card of the fulleted generic methods of the controls without and the form the records it is seen that were solved intervent of the funder the information product and whet without regression of the funder the information product and whet allow the fullet is an 43 of the information of only have also continued that may had not be defined without the one of cloper decide that and the information when the tool of the transfer also continued that is also the information of only have also contained that from the American the generic of only have also contained that may had received mess grade without the one of cloper decide documentation and without cayment of only. Similarly, the work were seen as the formation and without cayment of only. Similarly, the work were seen as the formation and without the formation and the only have also been done for the formation and without a second of only for the product of only for the formation and without a second of only for the formation of the product of the formation and without a second of only for the product of the formation of the product of the formation of the formation of the product of the product of the formation o

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J.

Sackt and Mr. Snakh Mistimo Glibb have Also educted that days have SUBBUILDE MY STAD HINS IS THE ARE UNITARIAN AS THE MANAGENER OF DESC. (2004); willow' the invest of deviation's end they here research consideration. бы жайы об тала тырыйн төрөн. Солионилор Июво сирослоса анадаасы да rement we had had the power of proce eventuation of the high-res of the силите наслоби настное саррод или плорадски то Мо Аррийского на Колбольно. the statements recorded have been wirted of dispatch by which a gravitation Report the lost of the fact of probability and second second first and the probability is not report source. The HORNE Admit Could be deeped of Xanange Converge (1990-109) \pm U $_{\rm C}$ 1986_CO) and the francia that Court of Analys Photosh in the same of Shalan Meess Phil, and appeal name held manimum is no aboundo weld Ser жове скалялалал это с я льтокая соняролятих сейсност нейс на оче SYNCARE STATE ANALOG OF THE SAME WAS A CONSISTENCY OF SEC. (1997) anner ter Seld Met the residue of conservational or of Star District and She Annue Konter Yeller, who maintained the private reports has not exclude any projector to the Appendix fa-

Encodine elimine investorante, we era ante of one movimus this was per a case which required on several organization. The Directors themselves adopted the polit. No industall elegistics state provide Ak some close, the Accellance recorded insite (c) referring or angulant. Former in cover 5x the Accellance recorded that on marscenden in summing that these appeals should be compliant to deviating theory.

"Manner ander of considered with a visualized caused any projuded to the Appendiants

We are not noticed to according with the winder of the times appendix, there are a reoversion of consideration and therefore, needed of the source accidence give needer to only with model operation of law. We decread the judgment of the unbound and find the model is given by the constant to window to it.

ς ind that Appendix No. 6 to Appellant No. 3 have been alleged it. Have purchases gapes clandestricly classed by Appeliant No. 1 without payment of Contral excise any end will out issuance of carbon excise involtes. The lower adjudicating public ity has imposed ponaty upon them under Kida 25(1) of the Rules. as he found that most apartitants wors proceaned in purchase of placestantly. cleared goods. Apaellar , No. 6 to 9 have concerded that they cannot be achaitzed on The Sasia of Bird party evidenced when no investigation has been repried out at their premises; that may bed find sworn all davia ratracting repositions made by from intheir statements recenter on 16.8 2012. I find it at the disabled purchases when a bigeo to trave been made in 2009 39 and 2000-10 and the stepen ents of Gress speciards were recorded on 18/09/2012. The appellable filed swon, affidavits on 26.07-2010 questioning convertises of the statements recorded. I find that make train (4) appellants have reliabled their statements relicatuped in the ingrigoed SCN [1] also find the homes of Apacilians No. G to 9 have not been reflected in the booking. registers of the transporters and no direct credible evide pes are evaluable in the SCN0mpugated order ealeblatury involvement of diese appearants in purchase of Serves mely depred goods. Therefore, there are not surfacent capenovs to how the Appellant No. Gita Appellant No. "Lineval shated devidestine destances of the goods." analar they were concerned in parameter of clanceschely observe popes by Apactian. No. 1. I also find that Appellant No. 7 was not proprioral of the firm at the material une. Hence, I find that this is not a introase to large as penalty upon these fixin

P:g: 74.135

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Appellance and therefore,) set aside constity imposed upon them under Rule 23 ω^2 . If a Rulew,

10. If view of above - uphold the impagned order except penalty imposed upon Oppollant No. 9 to Appollant 9 and accordingly reject appeals bloc by Appellant No. 1 Io Appellant No. 5 but allow appeals lifed by Appellant No. 6 to Appellant No. 9.

रण्ड — अर्ग सन्द्रतीयी आद अर्ज की नई आतिसों कर नेपटास स्वत्यर्थक तरीके से किस्त जाता है।

10.1 The groeak liet by the Appeliants datid sposed off in above terms.

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्रजनारं राजांगः अ.म्ब≓्वमील्मा

Dy R.P.A.D

- ¹¹ M/s Alash Manohar Ship Brockets PMT FM , D-250, Kaliabio Fan negat, Disbiot Bhownager.
- Shri An i Munshiram Jain, Dirocho: M/s Atam Manchar Ship Breakers PvL Lbr D-2h0: Kaliabio Ramnagar, District-Bhavnage:
- Shri Bharal Shell Plut No. 510, E-2 Goetha Checke Jain, Tenssar Real, Bhavhagar
- Shit Mno Jithai Amaranisha, Pateli Pict No. 20, Senitel: Park Society Subhashnegar, Phavoeyar
- Shri Kisherbhai A, Putel. Proplietor of M's, Krishna Enterprise. Plot No. 20, Santoel, Park Society Stibhes mager. Phavnager
- Stati Baldev Krishan Gupta, Proprietor of M's, Baldev Krishan Gopta & Gol, Induse No. 70, Sector – 21B, Neteji Subhash Market, Mandi Gobindgath Exstruct – Seteligern Sahib, Porijab
- Shri Serjeev Guata Proprietor of M's, N.G. Guata & Ca., Fouse No. 209, Sector 4A, Manei Cobinegarli, Dishiet -- Fatengarh Sohib, Pubjac
- d. J. tenora Kumar, Prosrietor of M/s. J.K. Jindal & Cc. Nouse No. 321, Sector – 24D, Mandi Gobinegora, District – Fatelaga + Salfb. Porray

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6. Shri Samarain Proprietoriet M& Habrillia, Macan Coost-House No. 190, Sector 4C, Mandi Gobindgam, District – Harchgarn Sabla, Punjab

Copy fur information and nesessary action to:-

- 1) The Olife' Commerciater (GST & Centrol Exclose, Ahmodapad Zona Ahmedahad for his kind information...
- 2) The Contaissionel, OST & Centrol Expleet Shavnagar Cohemicsionewith Bhay isgar
- Si The Additional Commissionel, GST & Centrel Excise. Dicomagan Commissionerate, Bhawingan
- The Assistant Commissionel, GST & Centrel Excise Rural. Division, Rheunaga :

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 - V2/23/289R/2017 11) Filto V2/28/289R/R/2017 [10] F.Ko. 92/954/HVR/2007.

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