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इक्टिक राज, की रूप हो 2 उस है 2 <sup>1</sup>0 tag , co 1000 mesme.

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्रभाव , पाइन महन्त्र , Append 7.3% Year 72/16/T075:40(7)

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## BHW-2XCUS-996-APP-137-2018-19

अदिस्तार दिनाका है। Zins, a. Orde –

।≾.८**६.**३७१६ - तुला दमको कि वार्यका ( Control temper

22.06.2013

Secretary Shirt C. e. Vasare. Communicação (2009) 3. Cabbad Bacico, Kulchi Gandaidhmaí.

कारकारकार है। किया प्राप्त १९९७ में अनुसार के बार्गा, एवं कार्यकार बेटोब वर्ज एवं के कर एवं वैक्कण क्रमण भूमक राज्य (बार्याजीन), यो अधिनिक १ १५४० को शास्त्र करोन अन्याद १७क आधिकेनम 1975 की बार पर के अपने पूर्व की की कहे कि कि कर कहा है। अदिर पहिल करने के केरण है सहित प्राप्तान के सन से विचान निकासिक है।

The structure of peaking on the non-peaking displace is then under the form  $35 \times 15 \, \mathrm{m/m}$  . Then is a Robert App. 19. Fund Section 25 of the  $\mathcal{P}_{0}(\mathbf{x}, \cdot)$  . App.  $\hat{\mathbf{P}}(0, \cdot)$ 

शन्त (त्युक्त ह्यूका आयुक्त जन्माक सहस्रक आयुक्त क्षेत्रक हता व शूक्क संगत्त्व, तामार्थ / जासकार १ वर्ष में १ शासाय व दुर्गरा प्रकारित जामा रहा विद्या के प्रविद्या / १ तंत्र हा तथा को उपराद कर कि तो असे अस्तर को विद्या श्रम्यक के स्वतर्थ (Sandhidham) Bha-1981 Commission & Design Excise / Saleste Trans Report / Sandhidham) Bha-1981

कर्षात्रकार के अंतिवादी के तर । . . असे १००० वर्ष के कार्यकार के lie **appellants के** 10 samplest क M/s M.P.B. Enterprise, Flot Bo. Cl. Bulle Breaking Yard, Alang, Bhavnagar,

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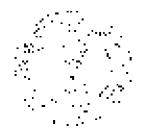
हम आदेश(भवेत) स्ववाधार वाष्ट्र क्षित् विकासिक्षित हाईक से जावार विविधित प्रिवेशका का रहाई। अपेत प्राप्त का रहाई अपेत हैं है हैं है कि प्राप्त के स्वाप्त के स्वाप्त के स्वाप्त के स्वाप्त का स्वाप्त के स्वाप्त

रोजा पुरस्क केल्पीय करा। राज्य एवं से पूज कार्यक्रिय स्थापक्षणण के पास अगलि वेद्याद रागत काला है इस्तिकेट पुरस्क की जान करता के उसके हैं। शिला कार्यक्षिण के 1894 की पास 86 के प्रतिकार कि अपि प्रतिकार केल्पी की सकते के उसके पास उन्होंने के स्थापक स्थापक केल्पी के सिक्सिक केल्पी के सिक्सिक केल्पी के अगलि से अपने केल्पी के प्रतिकार केल्पी के सिक्सिक केल्पी के सिक्सिक केल्पी केल्प 63.0

ल्बीके आ पूर्ण कर की कार्योल से उसे. 19 से सीमा १३क, जन्मीय दुव रन पुरुष राज भैगवार अपिसीय अमुद्राहिकारण भी विभिन्न की, बेहर सकीर से हैं जाए के ज़िल सके गुरुषों, की की साम के 60 % Mar epons through a Constant of Constant Service of Mar Appetite Tributed of West Block No. 2. F.E. 2003—, Sew Devictor of Martins and again through an and was some.

रामीका मुहिन्द्रेय १९०१ के द्वारा का इसीनों से भारता १९०० हो अर्थने होंगा सार्थ, केंद्रेश कराइ ५८० हो होताबर अर्थने १००१ के सार्थ करा सिर्देश की परि । इंबेंग फेडिक , इतिहीर्य तम, क्षुनाने सर्वे इसार अर्थाकार १९०९ हो में नो नाम प्राप्ता । įĽ·

To the West remaind bench of Contones, I mine a Ception for Applitate Tribinal Mitstiff of the 2% Swan, Business Business, Section 2.5 Central Swan (Swan) in the Companies of the I was mentioned to prove the section



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अपितिय निष्यं विशिष्ट के सन्ति अपित अस्ति अस्ति करने ये हो । केन्युय असार १००० । अपित नियमारित 2001. ते हैं है है ने के प्रश्नित विशिष्ट किए विश्व कर एक को महिला है हैं। इस की त्या और असात साहित है हैं के से अपित के प्रति के साम के से साहित है हैं। इस के साहित के साहित है साहित है हैं। इस के साहित करने हैं अपित है साहित है हैं। इस के साहित करने हैं अपित हैं हैं। इस के साहित के साहित है साहित है हैं। इस के साहित के से साहित हैं। है सिर्दा के साहित के साहित है सिर्दा के साहित हैं। है सिर्दा के साहित है सिर्दा के साहित है सिर्दा के सिर्दा के साहित है सिर्दा के साहित है। इस साहित है सिर्दा के सिर्द के सिर्ट के सिर्द के सिर्द के सिर्द के सिर्ट के सिर्द के सिर्ट के सिर के सिर्ट के सिर के सिर्ट के सिर के lüü

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The Local Cities with section [2] at Storback and Gray Attaches Cit. 1984, which Approximations for the City of th

हिल्ला अभिनेताल, प्रथम की हास १६ की प्रमाणकारी (भारती (भन्न) के कलाईक राज की क**ी उन्हें। अगे**ल, देखांच्य भिन्नान की, 1994, क (भन्न) 9(2) को 8(2) के अ<sub>पि</sub>ल (भेकी)की साम एक श**र्म को** सा कुलानी एवं उपके सात् त पुरुष, वेस्ति के १८ १५ मान अस्ति श्राहरण प्रतिक प्रतिक प्रतिक प्रतिक श्रुष्ट हो। भारत वार्ष्य प्रतिक शिक्षिय प्रतिक पर्या कुलाने से एक गाँवि श्राहरीय १८६६ प्रतिक प्रतिक प्रतिक श्रुष्ट के अपने जादुवन अस्ति अपनिक अस्ति अपनिक कहाँचा १८५१, श्रुष्ट श्रुष्ट शामक , वर्षे अस्ति का अस्ति । १९६५ वर्षे स्रतिक अस्ति का विकास के किया गाइन के असी

The posted builter out section to any 1945 to the victorial States Linear town 1995, shall be filled in Par 21.7 by prescribed before 1940 to 1947 to 1984 to the Social Text Subset 1997 and 1987 to 1984 to the Social Text Subset 1997 and 1987 to 1984 to 1984 to 1985 to the social text of the social passed to 1985 to

सीमा शुक्क, रहातुँच क्रमार पुरुष्, का कर कर वर्षेत्रीय क्र शिकाल (Gest) के बातूँ आणि के समूर्य में के हैं 1 हरता है कि है। 1944 में पार 2009 में अन्यहा को की जिल्लीय आधारिया । 1994 की पार 20 ना 3000 के कि मान की शिक्षा की दें हैं इस आपर की पर्के की में कि निर्देश में अपने अपने अपने उनके 3000 को अपने मान की शाम प्रतिकार (1995) कि माने की जाता कि निर्देश के अनुमान के किया का 19 जिल्लीहा कि पार मुख्यार कि 10 के 10 कि 30 माने के जनके जान की साम स्वीतिक देंगा की 19 <del>पहिल्लाम्य विकेश हो।</del>

ਕੇ-ਜੀਰ ਕਰ ਕਿ ਪ੍ਰਮਾਤ ਦਸ ਸੰਭਾਵਨ ਦੇ ਬਹਾਰਤ ਸਮੇਂ ਜਿਸ ਦਾ ਪ੍ਰਮਾਤ ਦੇ ਜਿੰਮਾ ਵਿਸ਼ਿੰਦ ਹੈ। ਪੀਰ 11 ਵੀ ਦੇ ਮਹਾਰੇਦ ਵਾਲੇ ਵਰਕੇਟ ਹਨ। ਅੱਗਵੇਂ ਸਮੇਂ ਕਰ ਜਵੇਂ ਵੇਸ਼ਕੁਨ ਤਾਂ ਜਿਲਮਾ ਨੂੰ ਦੇ ਸੀਵਜ਼ ਹੋ ਜਿ ਮਹਾਰੇਵ ਨੇਵ ਦਾਵਾਂ

े बहुत कर देश <sub>क्रम</sub> शहर के बार्ट्यान सिक्तिक (स. १५ आ<sup>.</sup> दिनंग 2014 के अच्छा में हुई किसी असेटिंग

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1944 which is a see see applicable to Section Tarrighter Section on a file of much Act. 1991, and appeal against the entire stall in the Local Cot. Tarrighter for payment of 1981 of the Butto domain let receive a material and country in the Local Cot. Tarrighter for parallel where the amount of payment of the Local Cot. Tarrighter for a colling of 75. The Local Cot.

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् । सम्बन्धान् को एनकीक्षणः आवेतनः :

Hedisign syglication to Congruence the India: हर पहिल्ला के प्रश्निक के अन्योद अंतर जिल्हा कारणा से विश्व कारणा पुरस् आर्थेक्स, १९४४ के दान 1988 के अध्यापित के अन्योद अन्योद अंतर जिल्हा कारणा से विश्व कारणा के अधिकार आर्थेक्स, विश्व अवश्री के अध्याप कार्य विभाव प्रोमें स्थान के प्रश्निक के अन्योद अन्य कार्य के अध्याप कार्य के अध्याप कार्य के अध्याप कार्य के अध्याप कि अध्यापक अवश्री कार्य के अध्याप के कि मिल्लेस अध्यापनिक के कि Sometiment of Admir Acquire and Admir Admir and Admir Admir Admir Admir and Admir Adm

- कोरी जाता के कियों जुन्हान का समझा है, जह जुन्हाज कियों गाल को कियों के एक नाशा बंधर जह के पार होता के दिवस का किसी देविया साहत्वी का मिशा किये जिल्हा केना पहार पहार के अन्य का भारतन्त्र के छोटन, वा कियों कुंकर पूर्व के का कब 19 में संक्षा के बहासावण कि दिवस, दिसी बहुत्वा बना नहीं भट्टर हुट से साल के जुनसान ं अमेर पर
  - in other of any lost (1 g x 1s. Abete the little copy of in a maid from a factor of in which below to be a which below to be a copy of the copy of the
- रेगरत के शहर किसी संपर्कता की जो निर्मात कर हो जाना के विनिर्धान के सामक करता जाता कर प्रति कर वैन्द्रीय भागत करता के दूस क्षेत्रिय के समय से, जो भारत के बहुद विन्ती तक भी क्षेत्र की विश्व की की की है। ;lin In each of effects of they of execution sports caps in the more estantism of the inter-order to see the control of the second of the second or expected on any control terrotory consideringly.
- ादि कर पास्त्र के भारत का अध्यक्ष किए किया करता है, शहर भारत है भारत है जान दियां है दिसा गया है है। https://diseason.com/seasonted-putsies indicates on the pulse it in a material preyment of the c
- भूकिरिया जानत के जाए है। इस के भूकिए के भूकिए को पूर्व है इंड इस साहित्य का उसके विकित्त है। इसके विकित्त के तह के कि अपने के तह के पहिल्ला का अपने के उन्हें के तह के अपने के उन्हें के पहिल्ला का अपने के अपने के उसके कि प्रतिकृत है। उसके अपने कि उसके क
- Testace there is a value of Filippe () and the value of the value of the property of the property of the value of Filippe () and the value of value of the value IV.
- ੋਈ ਪ੍ਰਾਵੀਆਂ ਪੁਰਵਾਰ ਦੇ ਗਏ ਸਿਹਾਨੀਕਲਿੰਨ ਵਿੱਖ ਹੈ। ਬਣਾਰ ਦੀ ਨਾਲਰਾਈ ਨੂੰ ਭਾਵੀਂ ਸਾਹਿਤ ਕੋਈ ਸੁਹਤਾ ਹਨਜ਼ ਪਰ ਸ਼ਹਾਰ ਦੇਖਣ ਜ਼ਹਾਰਾਲ ਸਾਂਕੇ ਵੀ ਸਾਹਿਤਾਵ 1995 ਦੇ ਬਹੁਤਾਵ ਸਿਵਾ ਗਾए (ਕਿ ਜ਼ਾਨ ਸਰਾਹਤ ਸਥਾਬ ਕਰ 90% ਸਪੰਤ ਹੈ ਹੋਇ, ਸੁਹਤੀ 8-1 (1975) ਦੇ ਸਾਹਿਤ ਸਿਹਤ ਸ਼ਹਾਰ ਜਿਹੜੇ conference (application wholl be made to collider a found Rue 2007) where the model of the collider of the second collider of t File Code Live

- अभा शुरुष्, क्रमारिक राज्यात भारत पर भरतम्, १९६६च्या १९५० क्रिया (साथ निर्माण क्रिया कर्णा, 1983 में प्रीप्ति इस १९५१ क्रमारिक १९६६ क्रिया क्रिया विकास स्थान मुझे लिखनी २० और हो स्थान आगार्येषु किया गरा है। ह nt chuide. Bhuile an haife dha che i che charaidh a ri she ann ar bha ach a bha a cuir cuidiú in tile. Thi albana, Fisc al mhí Seir deal Augelliu a Cuid Bhall (Scotter) in 1846. 1968
- gun अम्बद्धिक कार्यकार को अभिन्न मुद्दि है जानमें हैं संबंधित । १५०, विस्तृत और नवीनन ने प्राथमां के निर्णु 1994 में विद्यानीय केरता के करूर बीतकाकुर कार्य है से अस्ति हैं। है है, कि अधिकारक, double of any open product to the Jopan method weedle कर कार्यकार कार्य

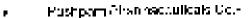
## <u># ORDER-IN-APPEAL ::</u>

MA: K.P.G. Enterprise Piol No. 31 | Ship Hrowing Yers, Alang, Deli-Chavragar (harometter referred to as this appoint) filled the present appoar against. the C.dern Criginal No. 350AC/Rurat/DVR/RR/2015-18 dated 16,01,2016 (hereinafter referred to as "Ure impligued artfor ) развес by the Assistant Commissioning Gentre. Excise, Rutal Division, Sharmagai (heminafter internation as "the lower adjudicating." Putheris/10.

- 7 The facts of the case are that during the course of audit it was found that the appellant had availed Cenvat Credit of Service tax of Rs. 8 68 4724 hyplen was paid on transportation charges for removal of goods from the factory gate to the promises of Consignment Agent and that the Service text was being paid by their Consignment. Agent through Sale Note and collected from the appellant. The appellant availed Central Credit of Service tax peld on GTA on the basis of this Sale Note, Since sale No.3 is not the document presented for evaluating of Carval Credit, the appoints didnot satisfy Ride 9(2) of Central Credit Rules, 2004, (northrattor rate) et 16 as 10et val. Credit Rules") and Rules 4A of Sortice tax Rules, 1994 (sereinaffer referred to as-"Service tax Rules"), therefore, SCN No. VICE-no-10/Applip/()/SCN/(5-16 dated) 23.12.2015 was issued to the appellant demanding duty of Rs. 8.86(472)- 300.157recovery of interest and imposition of squality. The activiticating authority, vide impagned. order confirmed Comina Excise duty of Rs. 8,38,472% under Section 1.1% (4) of the Certural Excise ApI, 1844 (hereinafter referred to as "the Act") and also ordered recovery. of interest under Section 11AA and also imposed active entirensity of Rs. 8,66,4724. under Seption 11AC of the Act reso with Ride 15 of Cersai Credit Rules.
- 5. Being aggrieved by the impugned cader, the appelant files the present appear inter-alia, on the following grounds:
- The adjudicating authority has not interpreted provisions of Rules 19(1)(a) of ſij Cerwat Credit Rules, 2004, and Rule 11 Contact Excise Roles, 2002 properly. When regarable goods are transferred to the place of Consignment Agant, the actual origin. charges are required to be  $g( ext{ded})$  to arrive at the assessable value in leads of Rule  $ilde{v}_i$ read with Explanation II of Central Divise Valuation (DetarmInetion of Photo of Excisable) Goods) Rules, 2000 (herehaller retorned to as "Central Excise Valuation Rules").
- The Department has not copied that. Consignment Agent has paid Service Tex-;ii; on the actual fieight incurred towards removal of explanate goods from fectory gate to place of Consignment Agent; that as per Contral Excise Valuation Rules, Service text was not required to be patt on such freight charges, as the cost of actual freight was dudy paid; If at sales of excisable gazets and not been completed up a life place of Consignment Agent. Lut completed as 800 ) as fire excessive gends were sold (a) that independent acycle who were not related to the appellant; that the Department painted J. A. San leary two stall est force without 6 by automotive of law.

page 4 of 10

- (vi) The Impugness cross has been passed without proper application of mind; than it is notified fact that (equiled Cerval credit nan been available) on the Lasts of 1000 girment Sale Notes"; that the appealant submitted sample copy of Consignment Sale Notes and stated that they had our eddy availed Consat predit on documents as set Service Tax Ruins; that from the optiments, it is seen that Service Tax or Control Excise duty was fit y assessed and the actual his got charges was shown sees buy in Certifal Excise invoices is not by the appealant the appealant had also one Central Excise invoices is not by the appealant the appealant had also one Central
- (iv) The lower adjuncating softently has falled to give his andings that now 'Sala Note: It not proper cooperate for availing Central Chattly that expersitly of said goods remained with the appellant and therefore, such transportation charges are to be considered as forwarding charges and they are chillled to avail Central charges under the category of GTA.
- (v) Uple transfer of goods to Consignment Gales Agents, there was no rate of foundyner or consignors, as Aspekant had simply transferred the exclosible goods to the place of consignment sales agent.
- (vi) Consignment Sale Agent is abling an behalf of the appoint for subsequent sale of the expectable groups to the independent excountry that solvible tax belongs to the Consignment Sale Agent has to be considered to have been as diby the appellang that the appoint has paid Central Expectably on freight, as well as Service has undenly delegate of CTA.
- (vii) That during the discrete belos Appellant flot periodical returns and maintained. Servat credit accounts and calsed Central Excise it notes. Wherein all such particulars had been memorated and they had provided the information before their twic was audited and therefore they had not suppressed any facts with intent to exade payment of Central Excise duty and therefore penalty under Section 11AC of the Act is not sustainable.
- (viii) If the sinor book domed that the input service has not open availed in or in relation to excitable goods solo intrough Consignment Sale Agam. The appellant relied on following case laws to submit that Convex predit has been contactly availed by there: .



Rarethal M.Chernicals Vx ODE

igg\_ Vy CM5 Camputers −

1885 (78) EUI 401 2005 (179) FIT 8 (8C) 2005 (189) LUI 20 (8C) Conj Lije (I) – i

VARID & Sons Vs CCE :

8 Kilmer Ltd, Vs OCL

2007 (212) ELT 64 (Titl-Mumbair) 2007(3) STR 236 (CESTATA 2007(211) ELT 124 (CESTAI):

Personal hearing in the matter was strended to by Shri N.K. Maru, Consultant and authorized Representative, who reiterated grounds of Appeal and also made further written aubinization datach 18 02 2518.

- 4.1 If willer submission. Appoint reliested the grounds raised in Apontal mematendum and submitted that they transferred the godes from (actory gate of Appoint to the place of Consignationi Sales Agents under Control Excise styology Appellant had paid Central Excise duty on the transaction value, inclusive of amost freight, ander Scotlen 4 of Central Eucise Act, 1944 read with Rute 5 of Central Exclaed Valuation Rules. Thus, the Consignment Sales Agent was not required to say Service. tax under GTA but he pairi Sorvice Lex on Cooks Transport Agency, which has to be-Bealetilize lianing pulsion behalf of Appollant as the was Approved Consignment Sales. Agant for said or said good's on beliath of Appellant only. Appellant referred to definition. of fastesses" provided under Section (5) of the Finance Act, 1984 and deined Buildiey. paid two lakes biz. (1) Central Expite duty and (2) Service texton states transaction i.e.payment of GTA, haveyer, the adjudicating authority has falled to give findings in this. regard even if the Consignmen. Agent in the instant case was nothing but escential part. of Appellantias gendefinition of Consignment Sales Agent.
- 42 They availed Cerval predition the pasts of "Consignment Sale Note" which configured happen of the service provider, nature of service, Registration No. of Consignment Sale Agent. Therefore those documents were legit documents for availment of serios, credit paid on GTA. Appellants office on decision in the case of Mrs. Graunte reportati as 2007 (212) ELT 54 (CESTAT-SMB) wherein Cerwat credit on i basis of least memor was held admissible and it was also theid that hype: leuknibarities. should not be made basis to disating Convolutedit.
- It was also ettim too that the Final audit rejort No. IS/RJTAV/C/550/14-19 was squed on 12.05.2015, whareas the Show Cause Notice has been issued or 23, 12.2015. after lapse of one year from the date of disclosing the Jacks and honce demanded 3. time bactact that they relied on darusion in the cases of Wicarwell Tyres & Tubes Indus  $p_{\rm c}$  LM,  $V_{\rm B}$  CGB. Diagon reported at 2010 (257) HT final (Tri. Pel.) In this regard.
- The term inspected as defined under Section 65 of Phance Act, 1854 according to which the sent hassessee" was nothing but the "Appellant".
- There is no revenue implication as the appellant has paid two taxes. Captal Socies duty, as well as Service Tax on G (Adheigh) charges and Cierchard, editie Issue أمراك فالمطيخ المقتار

Nage 6 of **10** 

Is revenue neutral. They referred to the CIA No. EHV-EXCUS-000 APP 034-2047-18 denied 1/2-90-2016 in the case of M/s. G. N. Ship Breakers, Alang and CiA No. BHV EVCUS (xi0-APP-006 to 67-2017-13 dated 25.01.2016 in the case of M/s Navyug Stip Breaking Cic. and submitted that more case is similar to it use cases and therefore, the imprigned order needs to be set aside.

### Findings:-

- I have established upon through the lacts of the case, and imprigned order, grounds of appeal, loss as well as written authorisis in ade by the aspellant. The issue to be sessed in the present operats is written availment of Cenyat chedit of Service Tax pain by the Consignment agent of Appellant, an transportation charges from the factory gate or the appellant to the premises of Consignment Agent is correct or not.
- if it is an record that the appellant at the time of plearance of goods from the factory gate paid Control Excise duty in factors of Haglangtion-2 to Rule 5 of Central Excise Valuation Rules, on value inclusive of freight charges from the tagtory gate to the place of consignment agant. The avelance of CFA service, and payment of Service tax by their consignment agents is not under dispute.
- Third that the lawer adjudicating purposity has domed thereof great, of Service Tux, pain by Consignment Agent on the ground that "Sale Note" issued by Consignment Agent is not a valid document.
- 7 I The appellant has alterrally pleaded that Consignment Agent was acting on their behalf for subsections sale of excisable goods to the independent customers, and herca. Sorvice Tax os diby Consignment Sale Agent la to de treated as having been. paid by the Appendant. I find that in common business partaged, role of consignment agent is to necesse goods from the principal for the purpose of sale. The ownership of and genes remains with the principal and the agent selfs the goods on behalf of the principal, as per life Instructions. The agent will then portuct his commission from the proceeds of sale received and hansier one remaining amount to the principal. The "essesses" under Section 4(3)[a] of the Aat actings as  $oldsymbol{u}$  poisses who is liable to pay the  $oldsymbol{u}$ ர்க்கு <del>விலைக்கு பாகோயில் சிவி காவில்நிக்கி<u>ல் நிருந்தி</u>ு. Since theid spute is about !!சுவரி.</del> credit of Service Tax paid under GTA, it is important to refer the relevant clause of the Actiging I find that Section 25D (12) of the Finance Apt, 1994 defines the parasa-'assesses" as 'the poissir who is hable to pay (as and highles Malagant) I find that the Consignated agents of the expectant have issued Consignment Safe Mates, whatch that expenses accurred white receiving the godes from the appetant auch as (reight, ু loarling, etc. and Service Tas on freight charges and libeir con mission end discount, these been codurated from the sale process of the excitable goods. Therefore, the expenses incurred thathe excisable goods reached from factory gate to the premises of Consignment agent were borne by the appointment if find that the person listic to pay

100 mg

"(e)(in), is liable to pay sorone (sx, under reverse chargo mechanism in case of transportation of guides. I, therefore, and that contention of the appellant that Service Tax paid by Consignment Sale Agent is to be treated as paid by the appellant, is correct. I else "indition the cases of sale of goods through Consignment Agent, the premises of a consignment agent from where the exastiale goods are to be sold, is to be considered as "place of remova" as distinct under Section 4 of the Act which reads as under---

#### "place of somewal" mount =

- (ii) a tastary or any other place of premises of production of manufacture of the exclusive regists.
- (ii) e warehouse on any office ciaen or prantises tohereit like epicieside goods nave boon parmittes in he reposited without payment of duty.
- (iii) e dapot, premises of a consignment agont or any order place or premises from vibras Inc oversable goods are to be sold effective clearance from the factory: from where such goods are removed.
- 7.2 I find that Appallant has availed Genyal credit of Service Tax pall on outward transportation of the excisable goods upto the place of removal i.e. premises of consignment agent, from where the consistence have been eventually so di which is povered under the definition of "input service" as provided under Rule 2() of Cenvat Credit Rules, which reads as under-

#### Maput service' means any service -

- (t) .....
- (ii) used by a manufacturer, whether directly or holieutig, in or in relation to manufacture of final products and elements of final products upto the place of removal.

end statistics services used to introduce to ...... <u>outward nonseparation</u> upto the place of removal.

[= nphasis supplied].

- From harmoniaus reading of (lohnhors of l'assessee", "place of removali and the rale of consignment agent in selling excisable goods, I and this Service Tax paid in respect of transportation of goods from factory gaze to the premises of consignment agents nothing but "imput service" for Appellant which has been used for transportation of goods up a the (extended) place of removal and Convet credit of Service Tax thereof, is allowable to the appellant. I find that Honble CESTAT, New Both, in the case of M/S M H.K. Springs Ltd. reported as 2007 (215) H.L.T. 154 (Tri. Det.) held as unice?
  - 8.1 The expression idealance of final product from the place of temoral type to be understood in the context of the proceeding years, which refer to service used by the contralactorer in ministra to the manufactore and clearance of final products, from the place of removal, which is all may sense of the

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ரையாடியாடு நிரும் தொல்க இழுத்தும் பிகாதுமாட்டி <u>நிரும் anomate மறுந்த சந்</u>து தடுதா iby clearance\_of\_<u>the neal product trys;</u> the place\_of\_removal. The Clearance of linet cooling, in an extenty contemplated for the purpose of removing the total products from the place of removal. In the paper they are removed, h<u>appy service, for orierance c</u>ell properly so college input for <u>რი ითეოვი ირისგავაცი</u>ვ. The expression leabant transportages გაქა (გა place of removal" delineares me extent to which hopet service to respect of tensportsfice, could be wained. The definition of piece of removal has expanded by introdict Section 4 of Central Excise Act, 1944, beyond the ractory precises to other about at prantices unempt the goods are described to be deposited without agreent of duty, from where the goods. are transied, and also deput, premises of a consignment egopt or any other alsos ar promises from unero the expressite goods are to be soid. office financial energiage from the faulture, for view of the exponence preparity of iliyi <u>oxoroasian ipiban ot majoyati, oytiyatil ba</u>yyyytalibn upto the pi<u>ree of</u> IBUNYAL her been reasonized an imput normal. It is not me intention of The Legislature to litting should a dishelowing in respect of small of lands. service) of inward and autward transportations. Here it is sandage returned <u>to in the inclusive perf of the definition, would necessarily being to be used</u> by the prenatediates in relation to the manufacture of final graduals and their charance, to quarty as "tigut sarving", " copied be the Intention of the Legislature, for all cervious, not coepilled in the inclusive part of the definition, asserbly the manufeables, for meaniforms and aleasence of final products that enterior transport service from the place of renoval, beconsidered as light service; and in recoast of pervices specified in the inclusive percoi the definition. that outwent framportation only unto the eglennied place of removal ishould be considered as imput connect. The which telegraphical economing in sub-plauser (i) of cleaser (i) of Rule 2 would only mount removal of the goods and desiring the folding premises of specia goods, and would not include any outwent francost, which would pages when the designes firing the featury promises on the extended labour of removal" of such goods, is effected. The removal of the risal products tions the featury promines iso as to also the faultry presides of such goods, would be pissessing, and calcula transport beyond the place of pergraphy instruct has regard in the world followings; cannon graphed to the contract in which it has been used. Therefore, applying the rate of the decision of the Biolgica Banco in Mrs. Sujeral Ambiglis Cemonis 125, v COF, Luchisca (sours), no impagned order of the Commissioner (45),49(4), holding that the Sonara hav pold on transportation of trached goods from the teating to the elections of the casiminer, san ha retice as (Janual sted) by the respondent, seems the sustained.

(Empresis supplied)

- The adjudicating sufficiely has slated that the appellant has availor Central credit on the basis of "Consignment Gale Note" which is not a valid document for availment or Central credit. The appellant pactorized that "Consignment Sale Note" contained name of the service arounder, nature of service, Registration Not of consignment sale agent. Under the charmstances, even if Service Tax was good by Consignment agents (laring the period under reference the condit of Central Credit needs to be excended to the appellant when Service Tax payment on GTA, by the constitution agents of the appellant has not been disputed by the Department. In this context I find the stand taken in similar lacue in OIA No. DI M EXCLUSIONAL PROBLEM 2017-13 dated 12.03.2016 in the case of Mo. Is. N. Ship Breakers, Aleng and GIA No. GHV-FxC-IS-ID-APP-IXIS to \$7-2017-13 dated 25.01.2018 in the case of Mis knowing 6nto Breaking Collected by this office, accordingly. I that that the impagnet order to required to be set aside.
- 6. In view of aboys, I set aside the that gred order and allow the appeal fired by Appellant.
- $\gamma_{\rm c}$  । अर्थानको हारा कर्ष की नई भागिन या निष्टात उपरोक्त नरीके हैं सिया अ $\omega_{\rm c}$   $\zeta_{\rm c}$
- 9. The appeals filed by the appealants stand disposed off in the above to ma

स्तर है। त. | **१८८८ हैं। है है है है** | १८८१ है है है है। | १८८१ है। है है।

(P. A. Vazave; Commissioner (Appests) / Commissioner COST &Central Excise, Kulch (Centific Ism)

F. No. V 2/88/EVR/2017

Date:15 30 2019

# <u>BVR,HAB</u>

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Mis. K.P.G. Emprarse,

Plo. No. 51, Ship Hrasking Yard,

P.O. Alang, Dist. Bhavragan

#### Copy to :-

- The Chief Commissioner, GST 2 Caribal Excise, Ahmedabad Zone, Ahmedabad for his kind information.
- 2) The Commissioner, GST & Control Excise, Bhavragar Commissionerata, Bhavragar.
- ற் The Assistant Commissionar, GST & Central Especi, Rural Division, Bhavingar, அடு Guard File

