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वृक्षा सन्तेत. अभ्यति (अर्थ २०४०) स्थलेत १४४ जाता १ Overled by Shift Number Schtstein $\mathcal I$ which we parameter $\{x_i\}_{i=1}^n$

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अभिक्तिको १८ जिल्लामी मा न ११ एक पर प्रतिसार-अस्तर सम्बद्ध का क्षेत्र अञ्चलको द्वार दे स्टब्स्स्य स्थान स्थान [10] Aggarwal and Correspond UD (1996) and 1996 (1997) 1290-241, [Hi] Drive.

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- িয়া ৯ শিল্যা, 14-1 পাছনা ২০ কা আজনান বৈ না চুঠা ১০ জিল্যা এই জুবা , ১০, ২০০ ও বিশ্বাস, চুঠা ২ জিল্যা লগে কা লগে কিছিল কৰিছে। ১০ জিল্যা কৰিছে বিশ্বাস কৰে বিশ্বা

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Marc Codes (see 195) के दें के ले कर के समादे और अगाय अपूर्ण को देन पर की एक अधि क्षमाद मुख्यान पूर्ण क्रिकेट जाने के ले अपने ने मूल निर्माणन के ने किया के समिति हैं 11 If you or other protection or post coords of a protection of the cooler file of or exclude organic area or the coordinate of a good was considered to be every protection on a second

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্ষাক্ষা আৰু প্ৰায়েশ (১৯ প্ৰশিক্ষিক । ১৯০ জ একুমান্ত বিভাগের আন্তর্গান্ত সময়ে কবিল বিভাগিত ও বিশ্ববিদ্যালয় ও সময়েশ্যালয়ের বিভাগিত বিভাগিত সাধিত ও 7;

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ানে সামিতি সামান্তি । ১০০৯ ৰাজিক ভালে ও স্থানিত সমাতে কিছে গোল সামান্তি সামান্তি কি স্থানিত বিভিন্ন নিজেন্ত কিছে। ১৮৮ ৰ ১৯৯৯ চাটি কি সমান্ত্ৰী ১৯৮০ - ১৯৮০ ৰ, উচ্চ টি সামিত্ৰত সুৰুত্ব সংগ্ৰাহ কিছে । ১৮৮৫ কিছে সামান্ত্ৰীত সামান্তি সামান্তি সামান্তি সামান্ত প্ৰতিক্ৰম সামান্ত্ৰীয় সামান্ত্ৰীয় সংগ্ৰাহ সংগ্ৰাহ

ORDFR-IN-APPEAL

H

Mis. Aggrava and Company, UE Aggarwshiptise, Bhavnegar 2291/0282-Art. TRI Drive, Bhavnegar isomorphise referred to as "Aspetant"; filed present expeat against (Coershi-Ditgips, No. 87/Excise/Dethar (220/18-17 old, 28,8,2017) (hereinafter referred to as The impugned order) passed by the Assistant Commissioner Commissioner States (Italian), Strendrabegar (hereinafter referred to as the ower adjudicating authority).

- 2. The erief facts of the case are that the depellant is manufacturer of Crygen ემა weie skalling 65) exemploir under Natification 3/2003-013 dated. 1.0.2003 during the period from work 2012 to Reptomber, 2012, viagotians also stance manufacturing of IMS Angle Charmels etc. by revolting process in the obtaining Costral Excise Registration sance premises անը։ AAAJEA9819CHM005 on 2,5 2012. Applit pointed but that the appellant had outained Central excise registration in Mainth 1907, availab exemption united Notace, on 8/2008-CE dated 1.3.2366 in respect of Dayyer. Gas valuing all ${
 m Rs}.72$ /40/340/ iclosted curing April, 2002 to Senti-2012, then started paying outyfor the remaining artiflet from Digitler, 2012 to Majeli, 2013 after availing Cerval. tred tion inputs allegedly in centraven, on to the provisions of Natification (#2003). CH dated 1.3 PIXID Show Cause Notice Cater) 31,5 PC16 was leaded damage pyri central excise dury of Rs (1.94,640), under Section 1176(4) of the Contral Excise. Act. If 44 profonation constraints as the A(3) dapping the 83 exemption for the cles ander made by the oppollor, during the period from April, 2012 to Sept. 2912, impress under Section 1 L48 of the set and proposing panalty under $\,$ Sexon 11AC of the Abt. The lower adjudicating sufficilly side imprigned order. confirmed demand of Rs. 4,64,5437, proceed to pay interest under Section 117/V. or that Act imposed panelty of 8,94,9434 prider Rule 25(1) of Cerural Excise. Rules, 2002 read with under Section 11700 of the Appli
- Bound aggreead by the implighed error, the appellant protocod the please it appeal, inter alia, on the following groups:
- (i) Appellance directory duly on the clearances of Okygon gas from April, 2012 to Spati 2012 as aggregate value had not expected the threshold imiliprovides those the seld invitiostrop; that appellant later on decided to take Convectored, on indust and therefore, they started paying duly et the normal rate throsever, (ii) has interested the JAC about exercising the potent under condition () of Pana 2 of the said No. Toston order the period that coling mill



- $\Gamma \in A$ detection during Addit possinot mean that non payment was with intent to exact payment of duty unloss facts thing out that life appellant had not gaid duly descite having knowledge that CENVAT card payable an such electances, that to evidences faces compensable out in the Show Cause. Notice, that his absence of any evidence constant to their bota fide belat, extended be it-floid 5 years can not be invoked, that mere team call breach and thought factorial for imposition of bandity when there is no impairiate in statute that every breadth should becessering be propieded that they relied upon the Herrale Supreme Court's decision in the case of Mrs. Wharat I days. Fractionals Too traported as 1938(98) HTT 33(60). But no gonally was impostate under Rule 25 (1) or the Rules that Penalty equal to dely confirmed imposed on the appealant is beyond the provisions of Sector $\mathrm{PLAC}(1)$ (c.) or the Act; that details of Clearances were respected in their operate of accounts for the period in question and hence, census of fifty parcent of duty confirmed only and disc insposed under provise to Soctor. If ACC f'(p); of the AcC that therefore maximum ponally at Rs 4,47.4714 can only be imposed .
- 4. Personal healing in the matter was attended to by Simi had as Vaccoaria on behalf of the Appollant who reiterated the grounds of aspectance submitted written submission lossey (Latitude hinas technicity production table of not intimating department to opt for not availing benefit of Naghtoafton 979003-0H (NII) dated 1.9 7009 that substantial benefit can tipe denied for projectors. Specially,
- 4.1 In their winton submission, capellam contended that case, aw of Har Chard. Shir Govern 2010 (\$50). H.T. 3 (\$0), in H.J. open by the lower adjudicating purhasis was not applicable in this case as the appearant had objected the procedure as sequent under the sale notification are as halo by the Horride Supreme Court in the said case, that show pause notice was time barrod masm of their was/is no evicence, in the show cause notice and in the jobal quiec onter as to now suppression stracts have been made by from that the snew cause notice was issued on the basis of Audit and no mens-

 $\{\widehat{Q}_{j,k}^{(k)}: k \neq j \}$

rad introduction from the records has the Langesia is newly been shown? reflector by the appoint in the ribody of accounts that penalty imposed is not is slied.

FINDINGS

- If have carefully game inforging the facts of the case in pagest order. Appeal Memorandum and submissions made during personal hearing. The RATE to the flectified in the present appear is as to whether demand of Rate 8.94.9457, carefuned and conally of Rate 94.9497, imposed in the impognet expension action of the second consistency.
- In that the expellent residence and the mainly on the ground that non-exercising an option was a procedural tapse on their part. It also time that the appoint that available exemption notification 8/2003/CE dated 1.3.2002 for their waysen gas plant with full understanding and constitution of taw. Appellant starror re-inting not in the same factory premises and obtained central excise registration in Feb. 2012 represing them under chapmen to fulfill all park tony ships afind the part is exceed as the obtained of notification (2000). CE called 1.8.2002, Hard, therefore, of the year that appoint can not have befind the argument that they treefer the resulting mill as new factory as specifical we're well conversant with the Central excise that, procedures and provisions of Notification No. 8/2003-CE called 1.8.2003 (Lenetinsfer referred to as 10 as of no.1 calloid).
- his partitions prespicted in the hotification are arried to prevent the misuse of partellit expended to Small coald industries and therefore, the same have to be mealed as substantive conditions and partiel be said to be a mere properties of technical nature and the non-observance of this can extra concorred. Expressing action is easily and test form tenantial procedure. Expressing action is easily and test conditions and procedures are mere procedure requirements, with no consequences abanded for non-observance. Therefore, I find that the appellant has not fulfilled the condition of the said Nonfocción. The very puratise of the procedures are condition of the said Nonfocción is to prevent praces of the facility. Department is facilitate for all conditios due to the procedures, the section of the verifical for recognicates, the appellant of procedures. These theorems are condition for all condition due to the accessors however it such intraction is to be verifical for recognicates, the application of procedures. These theorems are not be not

 $\{\chi_{k}^{(i)},\dots,\kappa_{i-1}\}$

not process beyond the scipulated procedures of the appoints plea is appointed that the very purchase of the politication will be defeated. They on the decision in the case of Enkoy Containers (2015 (295) El 1 (395) (900) wherein that been not as under-

Coveriment noted that nature of above requirement to a standary contribute. The submission of application for removal of expert goods in ARE-1 form to much decaste allowing such tentancies weeds read to possible fiscal of prainting an enemalisety smallside bonefit which may amount to accidental/couble cenefit. This has never been the pullipp of this Soverument to allow writtlended conefficientials Supremo Sourcin case. of Sharified-Dir. Abdel: Seed - Arth 1986, 5C 540b rate observed than distriction beingen required forms and other declarations of correspond natine antivor chippe sectorical natice is to un liceological done. When non automitación of said negotienent levras es ano specificiosid consequences men it would be allifood to hald that requirement as nonmandatory. As each there is no force in the class of the opplicant that this Japan should be considered on a processary lapto of reclinical region. which to usudenside in term of case laws alted by applicant. The Honbid Sections: Court in the case of J. Year, ode in Shotha Famil (2007) (212). Ele.T. 456 (3.0.1) has discussed Sections 62, 61, 8, 65 of Evidence Ass. 1972 and therein acherd the High Count New that the photoscoing cannot be inceived as necondary enclares in terms of Seathar 60 of the Act and they ought not to have been reselved since the documents in acceptant teers admittedly obclocopies, there was no pocability of the decommits boning compared with the originals. Government therefore holds that now submission of statisticity documents for ARE 1 original and depleate copy. lamp endursed by bestores and not following the basic type-diale of expart gordas sa d'ecassed suove, carnot de frested es just el minomechnical procedural lapsa for the purposa of transling labels of day, Government has already belong 000 Owler light, 249/2011-021, (tailed 17-3-2011, 216/2011-01), dated 7-3-2011, 805/2011-0X,, defect 17-3-2011, 726/2011-0X, detect 15-9-2011, 560/2011-0X, dated 50-4-7912_925/2012-03 - 35/Air 39-4-1911 And 357-695/2012-02 - 436/122-5-25% one several error aroom issued subsequently, materiate columns. are adversable if the arguest and duplicate copy of $\Delta H(-1)$ is not submitted. along was reliable starm.

(Cristianii Appilod)

G.2. If also find that are appellant was registered manufacturer and had evalled the penellit of serial holibilitation previously and thereo, non-information or their appliants into fusicled. The soludinating authority use correctly recorded his findings on non-tetritinant of managery considers of the notification light. I find that the rior Nie CESTAT is the decent Miss. Some Melaylus Plate repursed as 2015(240) (1996) (17) Amon) held as area to

'8. A plant receiver of the sero multipleton, personarly the condition to mouse 2, if is order mat the presence manufacturer majures to exercise their option to even exemption toward this notification inc., to pay duly at 60% of the mountainance true of city at the beginning of the following year test and the option once exercised common be oranged in the same financial year. Needless to emphasize that the following the refuse the option is

the Basis for awaiting the boront of the exemption notification, and prevelops, sugnition on complied with an equipment be eligible for the benefit of the solid notification. The attention 2 is monthally upon as further used from a reading of sub-clause (at along with the disabilities enchanted therebuilds. Therefore, and sub-clause the condition the disabilities as a mere propertion one and to await the condition the conjugation people to be furthed. Requirily, and then he Representation that is the used of Florida Ser Power Freducts List's case (supply white considering the eligibility is the floridation No. 16/2003 (CH.), dated 1-3-2003, attached as injurys.

- 11. The first live the industrial has decided the passe in factor of the assessmently observing manufearing of groups with payment of Esales duty with current organization which was easily as error and the assessment had not various the main substantial condition via no Ceruset usediff should be haven in regam to the groups. This is viewly a faulty approach on the part of the industrial P(I) selected at the cost of republical that the assessment was improved to fulfill the observation in already surror was to pay the duty other in each or brother in already are made to exact me havely of exemption in already are received in the payment of Convet week) of exemption molification and non-industrial transfer and the assessment of convet mentions of the first lines. The conditions have not been habitan per obytons consequence model for molification.
- Therefore, in view of the principle of the and down in the element case and in their Chand Blint Goppin case (suppo) by the Hopfyle Soprime Could be an epimeric, non-hintered of the sect topoletory condition accordalise the appointment in availing the beautiful the BSD exemption hollifulation file. 9/2000 (the stated 1/2-2003 Housewer, we find that the expeditule had recorded oil form in more stated by recorded and the stated had recorded oil form in more stated from an order than the stated of the control period. Thus, in our work intensition or penalty of the 1.00 lable in the channel that and the order of particle if the openion is the theorem and the order of period from appealants are decided to pair a particle of the indicator follow that the result, the independent of the particle of the penalty for the stated of the advised penilty to the extent of improvium of orienty and me appeal is advised penilty to the extent of indicator or penalty. The appeal is advised penilty to the extent of reduction or penalty. The appeal is advised penilty to the extent of reduction or penalty. The appeal is advised penilty to the
- 6.0%) also find that the Horbital CESTAT in the case of M/s. Shikar Metal (epotes) as 20% (263) ELT 160 (Te Mumbai) has held as integral.
 - 12. The locate involved in his appear is phetrief a menufacturer who is availing the conotifur exemption identified by: \$/2000, (lated 1-9-2005) can along the same incorrect page on! So! St the small scale exemption notification into adjudge they sufficilly held that a manufacturer cannot opt to heldered in incorrect year loope. The option is exempted. The formulationer (Appendic) set solde the order. The Revenue is it appeals against the order passed by the Commissioner (Appendic).
 - 5. We find that the per the proveness of Nottreeties 95/09040 \(\tilde{\text{P}}\) carea 1-5-2000, where a manufacturer orded to away the bounds of the nottreeties. There is no potential following that financial year. In view of the plant provisions of the notification, we find

that the impagned order is not sustainable and is for asing time the order cases of by the adjugicating anthonic is repeated.

6.1 In view of above, I and of the considered view that appoilant has not subtlad and condens of the said not descend and hence not aligned by the solutional guides by in the industrial architecture.

As records invocation of extended period or limitallian and logarst, up of perally ender Section 11 AC of the Act, I find that it less of self-assessment and machanism under the flattic Homes homes have throughful even μ_{0} on is very unequivocal title, aw to practice and implement and there is no scope to harbon any could increase that there was no ambigury is less and the appellant or itis. own was trying to make an interpretation of two suitable to itters. The higherient er superassion et tacis from the dependent of hunters to avade paramen; (cláirea, is available in this case for invoking extended period. Therefore, I am of the considered view that consider a imposable linear provise to section $1.180(1)\,(c)$. of the Actieven if it ansactions are reported in the books of accounts of the appellant as because they did not inform overanment even when they started to t rolling promise in the same premises where exygen gas was heldgi manufactured. I find that provise to Section 31(AC) (1) (c) provides that when riela la relitance monsiliare recorded in stallungy moon siligenally shall be sity percent of the duty confirmed. The relevant partial of Section 11 IAC reads as: under

"SHOUDN j1140 — Secolly for analysis of non-very of duly in cortain cases — j11. The smooth of penalty for installing or short-leay or installing parameters which should be at follows: -

(6) (6) ...

(a) — return and duty of proise has not been lasted or paid or has been should eved or chort paid or enoneously refunded, by reason of hasd the school even on any million mis-chatement or suppression of the fields. Or suppression of the mass match because of the forces of the mass match because of the possess and payment of outy, for paison was a liable to pay outly as determined under subsection (10) of scotter (10 stantages to ratio for pay a constity output to the duty so determined.

<u>Provided that in images</u> of the comes where not details relating to such the specified regarded for the expension of the specified regard for the emission beginning with the talk hant. 25 ft up to the children which the Finance Bill, 2015 modifies the assent of the Prosident footh days inclusivel, the benefit shall be filly peoplet. If the distinguisher, the sensitive shall be filly peoplet.

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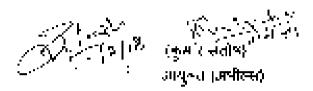
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@.... :.... *

 $\frac{(n^N_{i+1}, \dots, n^N_{i+1})^{N_i}}{\frac{n^N_{i+1}}{n^N_{i+1}} (n^N_{i+1}, \dots, n^N_{i+1})^{N_i}} \leq n^N$



- 7.1 I find that the appoint needs to be imposed perary @84% of day as the demand is measured to the decise from April, 2012 to September 2012, which is observe under the prescribed provisor. Indirect in the appoints argument that maximum panalty imposable on their indied law is "Gy percent of day por limed its. R84.47,4715.
- 8. In view of above, I ushold confirmation of period (I of Re.8.94.9/3/4 and allow) appeal to reduce penalty to Re.4,47.171/1 and readily the impagned order accordingly.
- ४ 💎 अणितकतो बनारा दर्ज की भई ३ मील वर भीभदारा उत्तरात । वर्राके स्थारिक जाता है
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<u>BV RP A.D.</u>

Mis. Aggrevel and Company, JB Aggarwel house, 2291/2262 A/1, Hill drive Bhashegar

नेमस अगरमान के नपना यू यो अगरमार शका १८९६/१२२२ स ६, होत पूछ्य शास्त्रमण

Dopy for-

- 1 Î.M. CDe' Commissioner, GST à Control Excess Ahmedabed Zore. Expresseus
- 2 The Commissioner OST & Central Excise, Ensyringer Commissionerate Praymoter
-). The Assistant Commissioner GST 5 Central Legice, Gry Jivision Diagonages.

