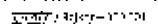


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रको कर मुख्यान के कर होते हुन्दी कको जान कुछ , रेपर्ट्स इनकर मुख्य हो। . . का प्रकार 100 कर कि विशेष कर हैंदर पर्टी हैं तु कर के पुरुष, का किसी का के आणि सर्वत हैं

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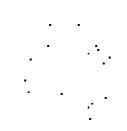
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िया के प्रश्निकों । स्वर्थ के 1000 कि एक के 1900 में मान कहाता करते का उन करिया करहीत है, उने का का उपने का क करते हैं जो अने के कहा कि में पाए के बाद के जिसमें हैं। अपने के अपने के 100 के 100 के 100 के 100 के 200 के 200 का 100 कि 100 कि 100 के 100 के 100 के 100 के 100 के 100 असे 180 को 200 के 150 के 100 के 200 के 200 के 200 के 100 के 1 jΙ

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் ^{இந்த}ில் இந்த நிறையில் அது நிறையில் நிறும் இது அம்மும் அறியில் அருந்த **(Cities) அவளின் எதுக்கும் இ**ந்தை வேறிய அதி நிறுந்த நிறையில் அது 12 சிறியின் நிறையில் ஆறியில் இருக்கு இந்த இந்த இருக்கு இந்த நிறுந்த நிறும் இருந்த இரு நிறுந்து நிறுந்த $\Psi_{i}(t)$

্ৰায়ে এইটাৰ বিশেষৰ পৰা চন্দ্ৰ হৈছিল, আনি নিৰ্দেশ সভাৱে কুলা কুলালৈ বিভাগালী সভাৱ ভাইলোন এ, যুটা, প্ৰিট্ৰেড্ৰ যোগালোৰ কেন্দ্ৰেৰ সংস্থান সভাৱে কি আনি কুলিয়ে সংগোল প্ৰতিষ্ঠান এই চন্দ্ৰ কেন্দ্ৰেৰ কৰিছে। এই যাবি নিৰ্দেশ নিজ কুলিয়ে যুক্তি কুলিয়ে মুখ্য কৰিছে নিৰ্দেশ যোগালো প্ৰতিষ্ঠান কৰা নিৰ্দেশ কুলাৰ আনকাৰি নিৰ্দেশ কৰিছে লগতে কৰি ক 151

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र् केम के उपन के को को मिन्नियों के पहले हैं। इसमार्थिक का अधिकार and entre when the magnet of SAR बात है। को सार्थित के अधिकार किया जाता और बीध के का हकता के एक कर के एक है को अपने 1941 र मा सुक्राम्य किया कर ! The review of square the second transfer of the color of the same stationary of the second of the same of the same Unit Day (COM) where the second broken at make same of the same of 1-!

प्रोर हुए करिया है को बुध नकरों का स्वाधित है से प्राथम है। 1900 कर कुछ का 2000 से 1900 कर प्राथम का कर कर की हैंदें हुए 10 के भीका कर कार्य के समाध्य किया किया है। 1900 कर के 1900 कर कर की उन कर है है। 1900 कर है के 19 1900 के 1900 करका कर किया कि 1900 कर किया के 2000 के 1900 के 1900 कर कि 1900 के 1900 के 1900 के 1900 कर कि 19 1900 के 1900 कर के 1900 कर कि 2000 के 1900 कि 2000 के 1900 कर के 1900 के 1 ıF.ı

বাৰত প্ৰতিক্ৰিয়া কৰা প্ৰতিক্ৰিয়া, 14 কি, বা প্ৰয়োজনৈ কি প্ৰত্যুৱ এই এই ১৯ জোৱা হোৱা বিশ্ব এই ১৯ জোৱাৰ জ্বাক বাৰতে কৰা কোনে কৰিছে এই চুকু ১৯ কিছু ব Che sampled application of D. C. Marie 2014 পৰি, 16 পৰি তেওক এই এই ১৯ জুৱাৰ কিছু ১৯ জনত স্বাহী কৰা হ'ব প্ৰয়োগ এই ১০ জনত এই ১৯ জোৱাৰ এই ১৯ জুৱাৰ বিশ্ব এই বুকু ıГı

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E'n,

:: ORDER-IN-APPEAL ::

Mys. Protevi Construction, C 1/815, Opp. Morall-Service Station, GIDC, Chitra, Bhavnagan – 264 Otto (hereinafter referred to as "the appellant") — filed — appeal — against — Order-in-Origina — No. 03/AC/STAX/DIV/2017-18 dated 17.04.2017 (hereinafter referred to as "the impugned erder") bassed by the Assistant Commissioner(AE), Central Excise HQL, Bhavnagan (bereinafter referred to as "the lower adjudication, authority").

2. The brief facts of the case are that the eppellant provided. taxable services "Works Contract Service": "Construction Service" and "Management, Maintenance on Repair Service" to various customers. but never filed ST-3 Returns and not paid proper service tex. Includy initiated against the appellant under a comons proceed by revealed that Shri Pradipsinh B. Gehil, Preprietor of M/s. Prothy: Construction and M/s. Prothyl Electricals was engaged in providing construction services whereas M/s. Pru6tvi Electricals engaged in providing services related to repair and maintenance of transformers; that they provided various services to their customers however they did not provide any service to District Panchayet, Bhavnagar and Municipal. Corporation, Bhavragar during the period from 2011-12 to 2015-16. The documents submitted by the appellant reveoled that the g_{ij} , appollant had provided constructor services of vancus dvilstructures, erection of electrics sub-stations, Mobile Towers, Repairing of Transformers etc. to various customers during the perjud from 2011-12 to 2015-16, for which the appellant received. consideration, but did not day service tax due thereon and never flat. 5T-3 Returns; that the appellant was liable to pay service tax of Rw. $49,50,516/\odot$ out of which they paid syrvion tax of Rs. $10,61,742/\odot$ duming fewegligation. Show Cause Notice F. No. -18/S 7/X/DIV/2016 17 cb5cd 20.10.201.6 was issued to the appellant $\sigma_{\rm CORR}$ sing recovery of service tax of Rs. 49,50,5, 6/- under proviso to: Section 73(1) of the Finance Act, 1084 (heremalter referred to as "the Act") along with interest under Section 75 of the Ac. and Marie 14.1.3 (7.5)

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imposition of penalty under Sertico 77 and Section 78 of the Act, the proposals made in SCN were decade by the lower adjudicating authority wide the impagned enter wherein correct of its, 49,43,548/- was continued under provise to Section 75(1) of the Act and Rs. 10,61,742/- so far osid was appropriated, dropped demand of Krish, Kalyan Cess 6(18), 6,968/-; proceed recovery of interest under Section 75 of the Act and Imposed penalty of Rs. 10,000/- and Rs. 49,43,548/- under Section 77(2) and Section 78 of the Act respectively.

- 3. Being aggressed by the impugned order larg appellant filed the protectibility without on the grounds that,
- () Service tax was not paid by them because of bonaside belief that the same was not payable and the appellant did not know the service tax law; that they paid straight tax As. 10,61,742/- and interest Ro. 10,000/ iditing investigation.
- (ii) The appellant has not contested evy of service tax but contested in position of concity due to shear contained hellef they had chall their activities do not tak under service tax and it enviers, there was reasonable as as on their part in not charging/tollecting service tax and not depositing service tax. The appearant is of the view that they are entitled for the bease's of Section 60 of the Act and no penalty show that imposed on them.
- (iii) More detection by the department does not mean that non-payment of service tax was with inject to evada payment of service tax unless the department brings out tests that the appellant was having knowledge able service tax was payable but soft they did not pay. No such facts forthcoming from Schillas well as imporpose order. When no such evidence is available and that the appellant had not exposed the vervice tax from their customers and hence, requested to grant immunity from the general.
- (iv) The appellant wiled upon decision of the Control Bombuy High Court in case of Wahish Vasachest Priol control of 2006 (10) StR S (Bom) and task Coomicals reported as 2008 (9) STR 230 (Bom).

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4. Personal hearing in the matter was attended to by Shiff Madhav N. Vacodriva, CA, who reiterated the grounds of appeal and made written submission to submit that they have 0.70 Rs. 10.61 lakes during investigation of the case; that this payment was made before issue of SCA; that penalty is not impossible in such cases and waiver under Section 80 of the Hiracos Act, 1994 is required to be granted as there is no suppression of faces occion their part.

<u>Fin**di**ngs:-</u>

- I have here else gape, arounds for facts of the case, the 5. rapproped noter, appeal memorand in and the submissions of the appellant. I find that the implanted order was received by the appellant on 03.05.2637 and appear was filled on 25.07.2617 t.e., cleary of 20 days beyond normal period of 00 days from the days of receipt of the impugned groen, the appellant has stated that their consultant was exceed in advictionary proceedings of various authorities due to drive of adjudication, reply work of notices issued. by the Income Tax Capartine Cauchto designed sation of Correctly; statutory audio work of Nanonalized Sunks and migration & consulting work of GST and discretere, such a day has obtained. Since delay is of 2.5 days only, which is within faither unit of 30. days_{i} . I condominately $c_{i}(s)$, $c_{i}(s)$ to define the appeal on ments. The issue to be deduced in the present appear is at the whether their impliqued great imposing teralty, in the given facts of the case, is: proper or otherwise.
- 5. If find that the appellant bus not contested dynamical service text of Rs. 49 13,548/- cool soles with the imprigned order and has preferred present appear specking in mobility from imposition of penalty in terms of Section Ed of the Act.
- 6.1. If And that the lower enjectors ignorately has held that the appellant provided various stables invitors during the period from 2011-19 to 2015-15 but testion assessed appropriate service fax for paid service to payable by the Gavernment; that the appellant oxyge disclosed receipt of budy income from such leaded services in their

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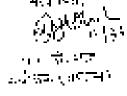
ST 3 Robins. These facts op. Id the inhealthed by the department at the time of leveragation and the provision against their itability of Ry, 49,45,545/- -- held that the appelland contravened the provisions of Section 58 and Section 70 of the Act with intent to evade payment of due service rest arrelingers, adding the department. Therefore, the lower polyudicating pathents in vide annuageed location 73(a) of the Act working extended partial.

- 6.2 The abodition has contented but losely have notified charged service tax and collected service, as under bodafide belief that the activities canned out by them been octobally to vervice tax and therefore, and is not a case of pagarescient of facts with intent to evade payment of service has accountagly. Sereithe, imposition of penalty is exquired to be set aside and penalty under Section 80 of the Act needs to be granted to them. But of the Act needs to be granted to them. But of load section 60 of the Act needs to be granted to them. But of the invoked only when for some but is able to prove that there was reservoirs of all for Uteir failure to pay service tax. In the present case, the appellant has not provided any acceptable/justified reason for their table or in not find payment of service tax. They have easo not note that any testas payable two rows after more than 2 years of detection by the department.
- 6.3 In find teat the numbers of the way shart to vary substantial and country, if they have any country and a property and/or payment of service test, they could have and subject have not above furth, if have not one on that to hald that they subpressed visit facts of providing basebo services from the department with intentity providing basebo services from the department with intentity or made by the laposition during investigation on Rs. 10,62,742/- made by the laposition during investigation than detection by the department, should coll to be in the laposition than after detection by the department, should coll to be in the laposition that case due to have payment of full service tax even now and therefore, this case is not payment of full service tax even now and therefore, this case is not

fit to invoke the provisions of Section 80 of the Act.

- 7. The act of the appellant also cannot be over looked in the name of ignorance of the law as pleaded by them. I find that the Horible aigh Court in the case of Rajesbree Dyg. & Pb). Mills (P) III. reported as 2010 (305) E...T. 112 (G.4.) has held that "We are conscious of the fact than this being the provision embedded in the statute itself, noticely can be permitted to place kylorance of the law. We are also aware than this being the law and intent of legislation being also very clear all concerned are expected to know the law." The Pichico Suprense Court in the case of Commins India Ltd reported as 2013 (297) E.L.T. 468 (C.O.I.) has been that it is without principle (hs. ignorance of law is no excuse not to levy of taxes.
- B. In view of above facts, the demand was correctly confirmed invoking extended period under Section 73 (1) of the Act. I have already read that the appellant had suppressed the material facts from the department with intent to evade payment of service tex and honce, confirmation of demand of Rs. 49,43,546/- and imposition of behalty of Rs. 49,43,546/- under Section 78 of the Act is correct, equilibrium propert. Since, the sujudinating authority had given the appellant option to pay reduced penalty as provided under law. Hence, no further magazine is required to be given by this Appellant Authority.
- 1.1 The lower adjudicating authority hold that the appellant had never filed 57-3 Returns during the period from 2011-12 to 2015-16 under Section 70 of the Act and therefore, penalty imposed Loder Section 77(2) of the Act and the appellant has not contested the said (indings of the lower adjudicating authority though argued for waiver of behalty under Soction 80 of the Act. Considering the Tacts of the case, penalty cannot be waived in terms of Section 80 of the Act as has been held in carrier parallable. Hence, penalty imposed Loder Section 77(λ) of the Act is upheld

- 9. In view of above, I uphob) the impugued ereor and reject the appear.
- ९.१ अपीलकर्ता द्वारा दर्ज की गई अपीज का निभटास इपरोक्त हरीके से किया आसा है।
- 9. The appeal line by the appellant stand aspected in above terms.



्रीयात्र (अपील्स)

By Regd. Post A.D.

To. 1 M/s. Pruthy Construction, 10-1/615, Opp. Margill Service Station, 10108, Of tra, Bhavnaga; = 364 005

मो. पृष्यी कनस्टुकशन, सी-१/८९५, मारुति अर्वित स्टेशन के आमने, जीआईडीसी, चित्रा, आवनसर-२६४००५.

<u>Color for julgimation and necessary action ∞ :</u>

- The Chief Commissioner, CCST & Contral Excise, Anniedabad Zode, Atmedabad for his kind information.
- The Commissiones, CGST & Centre Excise, Bhavnagas, Commissionerate, Shavnagar.
- 3) The Assistant Commissioner, CGST & Central Excise Division。 以 Bhavnegar. 新 Guard Elle.

