

्रभाकृत्य (अर्थेक्स, यह यहचीलय कन्द्र एक होता कर्त्यार्थ) १०और ७,५४८ युरुक्तः। स्कृतिमान (अर्थासम्बद्धाराम) (अर्थाक्षमः ६६ % ५०% १६५० वर्षः ५९

स्वेतीय राज भी एक या सकत १ थी २००५,091 किश्यात. देख कोले देखा होते, 7 Sacrifo est Christian

हारकाँक १३५७% – १८५ आ)

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📆 सहस्र (१५) हो। बनाव 🤃

श्रीमः । स्टब्स्य प्राप्ताः । स्कृतः । १३८ अत ন্দ কৰি চা ১৯০ ১৯ 12.4...

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ङ । अगोन आदिश नस्चा (Order h. Appeal Nati.

BHV-EXCUS-000-APP-167-TO-168-2018-19

आदेश कर प्रदेश कर

06.07.2013

जनो पनने भी नागेज :

09.07.2018

Date of Octavi

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Dut. of stud

<mark>कुराह संतीत,</mark> पाएक (वर्ष आ) एक संदेश हुन । वरित है

Present he Shir Kumer Sentzeli, Commissio in (Approxis), Fajkot

31 - இது அதிரத்து நடிக்கு முத்து இரும் இரும். இது நடிக்கு இரு முதல் இடைய இரும் வரும் (**Phon) ஒரு சாரிசில் கரி** ஆதிருந்தி இருந்த

Andrey on the construction of the second by Ad Boundhard Spring State of Community Control Facease Andrews (As Rights State as printed in the

🧪 अभीतकार्त के परिवारी का ताम क्या गुज कीन- बरेक्षके एक पार्ट the Appellants के Pes coxett 🤃

 Mis Ashren Corporation, Plot No. 77, Ship Breaking Yard Along, Wist. Bhaveagur

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্ব। স্থান কৰা বিশ্বৰ সময় কৰা আৰু বাহু সামান কৰিছিল কৰা বিশ্বৰ প্ৰতিষ্ঠা কৰা কৰিছিল। ১৮৮ টাই প্ৰতিষ্ঠা সামান কৰিছিল কৰা কৰিছিল। ১৮৮ টাই প্ৰতিষ্ঠা সামান কৰিছিল। ১৮৮ টাই সামান

engga ta Openes. Per al Sidenes de logicità a data i l'entre del la 200 i 1960 (1961) i de la 2000 i facili de Prussa son 1974 en appendite de

The appeal bench of Consent Doctor & Gordon Tomorphile - This sit is to all Mask Kin Alleis, Modella is a sit of a contracting of Decological Consents.

र राज्य का विश्व के अपने का स्वर्ण कर की का स्वर्ण के प्रश्निक हैं। एक स्वर्ण के कि का का कि कि को की कार्य कि हिस्सिन् की विकास को के विकास के किस्से अस्ति का स्वर्ण के अस्ति का अस्ति के अस्ति की की विकास की की का स्वर्ण

nn auf weer vergroeit secch of Courtern. Doore de Saw de Top Appplead Tribural (CCCCC) als 21 Maies, hier debindere e Appear Weer black 59 B.C. de die die hij de bei die die de de de de 1900 de 1900 de 1900.

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ind appeal under mo 人所见 [1] it for a color of the way (A). On the extension of the Children of the color of

- पित्र प्रतिकार, 1954 में 15 त रहे के 1941 को 1914 में 1944 के भोगन को की 1945 ते कि 1944 हैं 1955 के 1941 हैं के 1970 के 1917 1970, पर 1971 के को का उसेने का पार्ट की 1944 के 1944 हैं के 1944 के 1944 के 1944 के 1945 का 1945 1955 की 1954 के 1954 के 1945 के 1954 के 1954 की 1954 की 1954 के 1954 के 1954 के 1954 का 1955 की 1954 हैं के 19 2 के 1947 की 1955 के 1955 का 1955 की 1954 की 1955 की 1954 के 1954 के 1954 की 1955 का 1955 की 1955 की 1955 की ΠŤ THE MINE OF BRIDGE OF THE STATE OF THE STAT A Participant setting on appears of the co-
- 1 대 학교 : 10-25 : 대표 발표한 대 [대표한 대 [대] (10-25) j !

कार पर्युक्त हर प्रदेश में अर्थक कि प्रस्ता हुई के कार्य के सामग्री का अपना समुद्र स्टब्स कार्यन कार्यन के उपन विकास है.

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β το βούν τη καλιτική Μαλλία (Επικούς) με το βούς η καλλία (Επικούς Αυγακους) Αυθορίας Κατουργαφής αποκοιουργαφός από το συναμμένο τη τικούς του η επικούς επικούς το δεντικός και από το πορικούς (Επικούς Αυδούς Αυσούς)

पाल राजार को ५०%। ⇒ ७५%।

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नारक उत्तर को Saign an easy, Develop and subset to the control of the control

- ा पर कर के दिन्दी कर का कि समाने के उपचार को कि कि का मां अभी आहारों है आज पह सामाना के होता का दिन के का कहा क आ किया जात पर सुद्र के होते आज पूर्व परिचार के बार का दिन के अपने का आहार की साथ के कि उपचार के दोना होता समान कि किया पुरुष्ट आहे के उपचार के कि किया कि किया कि अपने के किया के किया कि का कि का कि का कि का कि का कि का क कि किया की आहे कि उपचार की किया कि किया कि का का कि का कि का कि का कि का का का का का कि का कि का कि का कि का क असमान के किया कि उपचार की कि का कि कि का कि का कि का कि का कि का की का कि का क असमान के का कि का कि कि का कि कि का कि का कि का कि का कि का कि का की का की का का की का का का का की की की की की
- तार के बहुत कि कार साथ के दिया का द्वार के के किसाब के उत्तर कुछ के का का उन्हें के उत्तर कुछ है पूर्ण प्रदेश क के भी के कि किसोब कर कि किसाब के किसाब के परिष्ठ के किसाब के किसाब के किसाब के किसाब के किसाब के किसाब के किसा के किसाब के किसाब के किसाब के किसाब के किसाब के किसाब के अपने के किसाब के किसाब के किसाब के किसाब के किसाब के क .i (
- is 0 seem given an operate both form of the large, after the state of our fields from (a,b) , (a,b) is the interest of the constant of th Æ.
- पुरिक्षित करण से क्षांकर जान ने असार के किस के बहुते किया है। उद्देशिया के कुछ में हैं कि अवस्था के उद्देश कर की बहु के और ऐस तिया के अपने (स्किन के उन्हें किस का का करण के दें हैं). 200 को अपने के अपने के अपने की किस कर का का किस की का आ किस कि कहा है। असे का किस के किस के किस के किस का का किस के अपने के अपने के अपने के अपने के अपने के अपने के अस किस के असे के असे के असे का किस के असे के असे किस का किस का असे किस के असे किस के असे कि असे के असे कि असे के असे 2014 की किस के असे के किस के असे के असे के असे के असे के असे किस के असे किस के असे की किस के असे की असे के असे 0:
- ्रमा । प्रतिकारी को स्थाप पर्ना करणा दिल्ला है, को के लेक्ट्रेग कर कुछ कुर्मीक लिए प्रतिकार के साथ के पार्टी कि हिन्छ है। इस स्थाप के प्रतिकार के आए के कर्मार की कार्टी प्रतिकार प्रतिकार प्रतिकार के अधिक के पार्टी (प्रतिकार) में स्थाप कि हैं प्रतिकारिक क्षण के स्थाप प्रतिकार (अधिकारी कि अधिकार कि कि समामिक कर साथ करायी है के साथ करों का उसी की 151 the community of the control of the
- ा, काल कार का का किन्द्री से के कोई के पूजा की कारणी की उसने 1987 । हिंदी काल कार का पात को को पात का है। या कोई की का Marie किया के 10 कि की का का का दूर हुए कुछ है के का का कि कोई कार का का का किया का है। The resident coolerate state of the state of the first state of the Jewis state of the part of the state of the Julius 1986 का को को का का का का का का का किया का मिस्तार का उस 15
- ित्र के अध्यक्ष ना पहुँ मुख्य कोटा सामन के निवाद नहीं के हुन कोटा के अधिक हुन का एक्टर का हो जिल्ला कार्य कारिय होंगे का भी की कोटा पहुँ जाता में कार्य का किए कार्योगों के बोर्टिय कार्योगोंका कार्योग के उन्हें के उन्हें के अध्यक्ष के किए कार्योगों के कार्योगों कार्योगों के किए कार्योगों के किए कार्योगों के कार्योगों के किए कार्योगों के किए कार्योगों के किए कार्योगों के कार्योगों के कार्योगों के कार्योगों कार्योगों के कार्योगों के कार्योगों के किए कार्योगों के कार्योगों कार्योगों के कार्योगों कार्योगों कार्योगों के कार्योगों कार्
- තා අත්රම්ය අද අතර කුරු දුරවිණය. 1925, රා අදුදු මට ද අදුමට අතු මෙම සිදු කරන සහයා මා අති සා විශේදා අතර දුර ස සංගතක දුනුම වීමද සමාද්ය කිළිවා ? වෙදාහන් දැනුම සිදුවා දුරුව දිදුවා මට කළ අතර දුරුවල් එම හමුවා ක්රම මේදනයක් දුරුවෙන්ද වෙම් සෞඛ්ය දුරුවල් සිදුවා ද දුරුවල් 280 දුනුමට පත්තර වෙනුම දිදුවල්වීමට ම අදුවු ක්රම එවන එම අතු අතර වෙනුවේ සිදු ıĽı
- ে বাবাৰ ইটা বাইটাৰৰ পৰি এই কোৰ বাই কাৰাৰ হৈ তাৰ ও জিল্পা কাম কৰিবলৈ বাবাৰটোটো কিয়া কৰিবলী টিৰেবলা বিজ্ঞান উল্লেখ্য হৈছে চুক্ত কাৰ্যিক কৰে বাই আৰু বাবাৰ বাবাৰ বাবাৰ কৰে বিজ্ঞান কৰে বিজ্ঞান কৰিবলৈ বাবাৰ কৰিবলৈ বাবাৰী স্থানী কৰিবলৈ কৰিবলৈ কৰিবলৈ কৰিবলৈ ক কোৰ বাবাৰ বাবাৰ কৰে বিজ্ঞান কৰে বিজ্ঞান কৰে IG.

:: ORDER IN APPEAL 🔅

The present two appeals have been filled by the Appellants (bereiche) termination as "Appellant No.1 is Appellant No.2; as detailed in the Table Delow against Order-in-Original No. 05/AC/Rurat/RV8/R8/2007 to identify the Assistant characteristic referred to as "the impugued price") passed by the Assistant Countrissippe of Central Excise, Sunal Division, Bhavragan therematical saturation as "the lower adjustmenting authority"):

[5:."	4 0p 0a: 40	apoclamiko.	Constitution of a supperficing
	997138789877C1 7	δμ ∉‼an. kn. i	$\mathbf{T}_{B} \mathcal{F}_{A} \mathcal{F}_{A} \mathcal{F}_{A}$ for printing this tenter, $77.3 \mathrm{\ kpc}$
<u> </u>	**************************************	apocilant No.2	
i			 A Water Assembly a specific of the Garage pro- is and epithol, Matrix Protection Associate.

The brief facts of the case are that Appollant No. 1 is ensaged in ateaxing, displantling of ships imported for preaking porpose at their also at the saip Breaking Yard, Alaag Galding Child Excise Registration out AAAFA2062QXMJJ1 and availed Cenvat prodition the imputs, capital goods and input services used in on in inlattical to manufacture of their final process as seri the Censet Credit Rules. 2004 (hosemafter targeted to as who History, Naips) Inspertical for prooking purpose normally contained many demoying five, but, in shi speed dresel oil (warme sas oil) but. (bit one to be used as runt randhe ship as for garderation of electricity as well as somer feeds, powerases, collectics and other artifies to be carsumed by the error on heard a ship. An important of a ship for broaking traipose little Bilt of Entry in respect of slop imported by him with the periodictional customs Authority declaring the sylongery the quartities and values of (1) Fuel Oil, LSD Oil (2000), Lub. Oil, (4) other contamble orthographs tood, heverages, toketnes etc. and (iii) the "Ship For Breaking Purpose". (excluding the goods and material separately declared as mentioned as $\langle \eta, h, \eta h
angle$ and customs ducy is accordingly assessed the conju $\{j_{i,j,n}\}, j_{i,j,n}$

2.4 Note the 9 to Section XV of the Schedule 1 appended to the Cerula. Excise Tain'f Apt. 1985 reads as finiteletion to the products of this Section, the process of notationing goods and inviter als by breaking up of slops, locate and finalling scrupture shall amount to impouranteer? "If thus, process of obtaining all the goods and materials covered under the Section XV (Chapter 72 to 65) of the Section XV (Chapter 72 to 65) of the Section (XV) are considered as appended to the Control Evence Tainff by problems, up of slops are considered as manufact tring activities and all soon goods and instends, obtained

Page 3 of 18

by such process and considered as fexcisable goods' being subject to lavy of duties of Excise as per Section 2(d) of the Central Excise Act, 1944 (Sectional Ler referred to as filter Act.'). However, the goods and misterials, except those covered under Section XV (Chapter 72 to 85), even though obtained by threating up of ships and considered as non-excisible species.

- 2.2 We der Rute 3 of the Rober, a manufacturer or producer of final products 5 allowed to take cradit of daties of excise of the administrational cuty of sustoms (CVD) paid on any "input" received by die menufacturer for use introduction to, the morphacture of final products. As per products to Chause (wf) of Subject (1) of Rober 3 of the Rober, Central credit was not blowed in excess of digital two percent of the additional aday of customs (CVD) paid on ships incorred for two-king purpose. However, the sest interface was omittee with effect from 01.00.2015 yield shiftestion No. 01/2016-C.C. (N.T.) dated \$0.02.2016. Thus, full Central credit of the additional doty of Fostoms (FVD) paid on ships imported for prepared ang purpose was available to the important of ships for breaking purpose was available to the important of ships for breaking purpose was available to the important of ships for breaking purpose was 1.01.03.2015
- On our basis of reformation that appellant Natifues avoided Servet crigit, of the Additional Puty of Customs (CVC) paid on File, Oil, M.G.O. (H.S.C. Oil) & Lub. Oil esc. contained in the shipt imported by them for preaking purpose, z_0 : asgeny was initiated. Appellant No. 2, authorized signatory of Appellant No. 1. produced the regulated decurations size ERAL results for the month of February-2016 to Areast-2015 and leaver of Cerval Credit Revision (Form RG 20A Part-II). ren had berdas firme kehri day 20 6 te August. 20 6 niongwith Mill at Lirety Ne. \$25/19972015-16 dates 19.02.2016 in respect of M.V. GANT VISION and B.D. No. 5897 (4723) 6-17 dated in C4.2016 in respect of ship NAV, CORRESPENSE and a statement dated 25.11.7216 of Appellant No. 2 was also reserved. Appellant flo. 7. In his state jurit, stated the as printing factory and, show which not allowed to stone oil and facts at the yard and he self-oil and facts were removed in rankers (be relisioned then on districtly to the registered dealers and/or to the actual users; that they took Cenvat Credit ecclinaters to 1906 of the total duty. pets, under 0.1H 8900 as provided under the Rules; that they taken the credit on Bunker (Fue: Cl./ Marine Cas Oil HSP), turn Oil; tying inside engine room in respect of vessels imported by them and had utilized the same during Learnary. and April, 2016; that tory had taken creation Central cracks to respect of Free On/ Marine Gas Cil, LLb. Oil as the same was filled under Chapter heading 9909.

Appeliant kp. 1 vide tetter dated 25.11.2016 informed that they had used north-quantity of HSC Off Inspected per vessels AV trant Vision and MV Cambe Pearliand submitted coords of 1030L CONSUMPTION WEVC1 as five, for operating or 0. 5.5e., Whenes, Cranes explicit their page.

2.4 the following observations were made by the investigation:

(ii) As per the Note No. 9 to Section XV (Chapter 72 to 83) of the Schedule II appointed to the Cartral Excise Parist Act, 1980, the gases are materials obtained by process of breaking up of ships can only be considered as the excisable gases' as defined under persion 2(d) of the Act as well as the trickly process' as defined under Nuc 2(h) of the Rules so for process of process of Skip is concerned.

(iii) we can study 3 of the states, a maniprocturer or product; it that products is allowed to take credic of outlinear excess or the administrative of that products for each on any "input" received in the leaders of manufacture of that products for use in, or in relation to, the manufacture science envelope. As per Rico 20a of the 800s, the world "input" means all goods used in the factory by the manufacturer of the final products but excludes any goods which have no else, bushing whatspeeds with the manufacture of final products inrespective of class hooding whatspeeds with the manufacture of final products inrespective of class hooding of the goods under Contract Roman or Coston's Terminand whether any goods can be considered as imput" or not depends on its usage in the process of manufacture of their dux, products.

- fiild Appellant No. 2 in his statement dated 25.11.2016 agreed that immediately after maching at a vesse, or the rising preaking plot, as, the fuels and oils are removed from the vessel and sold out verbant storing the same and without using it (except a tow stant by of H50 Oil used as ited for operating of D. G. Set, Windhes, Cranes etc. at their shot broading plot) on the process of obtaining goods and materials by broaking on of Abip.
- (iv) From ER-1 returns filed by Appellant No. 1, it cannot be ascended whether the Convoltation to executive a west autilisable on judics per the juristions of Pules in as much as ER-1 return depressionly the figures of opening database, Convoltation and infilited and closing belance.

(v) appellant No. 1 had taken Convet stoot of the Adericanal Duty of Customs (CVD) pale of fuel bit, high speed closel of (M,C,C) bittib, (M,Suppressing the

late that the same were not used in the process of obtaining excisable goods and materials by breaking up of shed and chose facts were naticed only or the time of investigation.

(vi) As not 80 a 9(4) of the Roles, a manufacturer of fical product is sociated to maintain proper record for the receipt, disposal, conscript on and inventory of the tapid and the burden or proof regarding the admissibility or Canvas credit shall be upon the manufacturer raising such process.

(vil) As per Exploracion III to sub-rate (3) of fixe 5 of the Botes, no cervacy radio shall be taken on chity of the particle any gapes and services that are not inputs or most services.

yord) Energines. Convar the doctors 38. 17, 10,2537, taken by Appedent No. 1 or Additional Duty of Customs (CVD) pold on fuel oil, it shippesd it esel oil (M.G.O.) Subbl. Oil finside engine room burner) was wrong in as a ocinias the sold cooss were not used in the process at manufacture of their final excessible goods by breaking oil the Said ships and checkwoold to optimic affect therefore the same contact no consideror as impaction cettand upder Rule (qs) at the Rules.

- 2.3 5 pow Carse, Notice, No. 17,77703-3177-Rorat/2015-17, dated 20,06,2017 was issued to pich Appellants wherein it was proposed to demand and monovery of vicingly availed Cerisal Credit of Rs. 17,36,2537- as per the provisions of Rule 1- (10) or the Rules read with Sub-section (4) of section 11A or the Act from Appellant No. 1. It was also proposed to in pose penalty under Rule 10(2) of the Rules coor Appellant No. 2. The said Show Cause Rotice was adjunctated by the Rules coor Appellant No. 2. The said Show Cause Rotice was adjunctated by the logific medic english of Coopat credit of Bs. 17,38,7537 indicat Bits 11(11) of the Rules read with Section 11A(4) of the Act and also imposed paralty of Rs. 17,80,7637 under Bits 10(11) of the Rules read with Section 11A(4) of the Act and also imposed of the Act upon Appellant No. 1 by giving out corrol 25% reduced penalty subject to the conditions of Section 11AC and also imposed penalty of Rs. 1,0007 upon Appellant No. 2.
- $s_{\rm c}$ being aggrigored with the impushed prices, Appetiant Na. I and a profession taken appeals of the various grounds as independent

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- The imaggred order is not proportional logal as some has been passed by gons violation of previsions of the Roter as well as provisions of Custon's North Authored with Central Excise Tarill Authority Ply on previsions of section Spt) of the Customs Part Act. 1974. Ruth 2(k), 2(m) of the Ruths and Section Rote No. 9 of Section XV of the Central Excise Tarill Act. 1985. The Info topic was the imported goods which have been a assisted under Central Excise Tarill item No. 8908.00.00 for the currence of levy of CVD under the provisions of Section 8(t) of the Customs Tarill Act, 1976 a that the provisions assessment at the said goods has been cone by the proper customs officer by classifying the Lunkars under the provisions of the Central Excise Parill item No. 8908.00.00 of the Central Excise Parill item No. 8908.0
- 2.2 The disputed goods have been classified under CHINH 8908.08.08 being an integral, part of the wesset which has been clambed by the (kmilble) fight Court of Gugarat In their order by ed. 0.407,2017 mean with the EFGT's jetter dates, 26,05.0/13 and further read with the assessment of 3ilts of Entry assessed by the unique. Customs Officer; that at the same of passenting the BfT of Hotry, Appetiant No. 1 had declared that they would awart Convol promotion the goods following including the said CVC; that the goods fabring under CUIS assessed the CCIS assessed in cuttoff as \$3000,000 and in the goods fabring under CUIS \$3000,000 are the best input as specified under fight STITIVITY entire Wilds which consist the duty of excise ou such goods as populated under clause tilt, (11), (11), (12), (12), (13), (104), (104), (104), (105), (104), (105), (104), (105), (10
- 3.3 The adjudicating authority energy holding at Para 3.2 of the introgred order that Appellant No. 1 had availed Convet Crostil to the extent of 85% of EVD interpets of the imported goods declared in bill of entry whereas Appellant No. 1 had bloody because avail 100% CVD as Convet prest under Rule 3(1) of the Rules in respect of the imported goods classified under CETSH No. 8908.00.00; that The adjudicating authority error at para 0.4 of the impugned order by mishiterpleting Clocker No. 377,90% Crs. dated 38.37,1996.

Page 7 of 12.

which was nothing but reply to addit covering the result of they of distorts Buty. on the bods of Hight Psychologish's Termoge (LDT) of the skip imported for threating, that confide Sujaratiningh Course in order pered (5.07.2017 has held that such fuel offs are the integral hard of the westel and classified under a laster 3909.00.00 of the Sustains Lamff Act, 1975; that Rule JOT of the Rules, allow-Such 5a rest credit of such cuties baid in accordance with the 1% solleptic to the Central Excise Tariff Actineae with the Kuc 3(1) [will of the Kucs; that since the specified duty under fore 3(1)(vii) of the Roles has been paid, they had correctly avoided the conventioned to that through remoded by the lawer adjudicating authority at page 3.5.4 of the impugned order is not connect as the curv of qualities and duty of Control Excise are levied on the ungerted goods specified in the respective tan if Active far as the levy of CVD is concerned; that leve of duties always depend upon the goods sociated in the said Tailli Acts and the Convationed it is poperding upon the lawy of Contract Excess duty and lovy of CVD. on the specified group as specified in the Costonic Tariff Act. that the adjust catting authority has wrongly applied the Rule $s(\epsilon)$ of the Rules. $\Re (a \hat{\mathcal{R}}_{i,j}) = 0$

The slops had been topocted as is where basis with everything or poars; anothruskess are terms as unregard part of the vasse i and accordingly, classifier. rance, 8508, that as per Hor "Ide Somerne Cooks"s goldefine, disassocia of bunkers. living on board of the ships imported for Stocking are immediately required to be removed from opard of the ships to avoid fatal accident and enable to dainy but had amonth activities of breaking of shins by using oxygen gas? IPO gas, thea twichout removing such oils from the board of vessel, manufacturing activities as ritafined under Section Note No. 9 of Section XV of the Conurs. Excise Taniff Act, 983 council be started; that in their case lep it is the goods railing under Chapter 8908 of Central Excise Tar Fillread with the provisions of Section 3(1) of the Customs Parist Act, 1975, homeshing to leav or CVD which is specified for availment of Cervac Credit under Rule 3;" (of the Rules: that such use is to be Enroppeted with veterance so the goods classified under Central Excisal Lartif Not 8908,00,00 itel, the ships imported for Loeaking up only and not the disputed goods along as the same has been plassified under the said them by the Customs. and Central Excha Department, that it is not that that they had not used the gonts covered under Chapter 8903.00.00 of the dustons Tariff Act, 1975/Central Exhibit Larlitt Act., 0.85; that they tely an judgment reported as 2.05 (3.35) NU I 341 (Tat. Wumbal) in case of KEC International EM

Rage directly

The adjudicating authority has tried to challenge the duty aircrafy determined by the proper Lustons Offices so can as the assessment of SVD is: concerned: that findings of one townrise judicating authority at para 0.5.5 of the mapping consider are not conject, in as much as they had disertly established that the CVD pand unor the provisions of the Spation U(1) of the Customs Tariff Actu 197 ϵ 's classify $\epsilon_{
m P}$ alreading for available $\epsilon_{
m P}$. Convet Shedit as m gray decimaled BH $^{
m P}$ 2(1) of the Rules in as much as such rate of CVD has been determined as per morate of thity as shown against Central Excise Tar (1.5903.00.00). Just the CEEC vide Circular dated 20.10.1997 has a cardy held that roome ship except ship store are classifiable under 8903 is an imput taking part in the activity of empl arcaking under Bute 1974 of the Central Excise Rules, 1944; that removing oils Form the locard of the ship is elegably nexts with the manufacturing activities; that the statement of the hartner of Appellant No. 1 has a Scoreticed by the 5GR diseting accounting the meaning of "use" to be innerstood rechangly. looking to the manufacturing persons, if as the financial tore' includes series of Statesyes which are incidental or anothers to the completion of magnification process that manifacture involves series of "processes"; that the process in indicates with relation to manufacture modes not only the $\operatorname{regorded}(w)$ but the various stages, through which the naw material is subjected to change by clinerent operations); that they only on Jirdgalent to take or Rajastian Chemical Works reported as 1991 (99) ELT \sim 4 (SC); that the adjudicating entherisy circle in recording fundings at mara $\{1,1,6\}$ $\{1,2,3\}$ at ${\sf shape}({\sf mpt}_{\sf in},{\sf mpt}_{\sf in})$

3.6 The lower edjudicators, author to errod in relong an jungment of Nathaha Strip Breaking Corporation which is not applicable however jurgicial reported at 28.9 (14.0 F. 1.136 (15. Mumbal) is applicable in this case; that as an evidence Two refer to Bill of Entire No. Suprementation to nated value. 2010 mice by was Chastram Cookalchand (Shi). Breakers, Plo. No. 38, 589, Alang classifying remaining pursers under the original ream or astada the engine room under proper Customs Officer (as classify such bits lying inside the engine room under Central Excise Tar Cino. 9868,60.60 and assessing officer has bassed a common of not barry of the soft Bill of Entry dated 26,06,2013 as free-assessed as bunkers contained to the edising tanks classifiable under asspective heading is borns or Charter No. 37/96 fustoms (quel 03.07.96, the, the Homble CESTAT Cide No. A/M210-11010/2034 dated 08,07,2014 which has been conformed by the following the Court have been fitted as proper solutions Court have been find surplies curvers classifiable under Surface Tariff Active solutions of period goods under Customs Tariff Active solutions of the Court Reviews (Landon) and the Customs Tariff Active solutions of the Customs Customs Tariff Active Solutions (Court Reviews).

domain or distance authorities and therefore, autside the builders provisionedly assessed under SH, 72 of STH."

- they had not suppressed any facts and circumstances as they had declared the intention for availing the Convet contill on the goods classified under Control Lixtise Tariff No. 0662465465 at the letter of presenting the balls of entry; that department was well aware that slip breaking trits have availed the Convenientality that present issue was perforing to the intereretation of law which was becided by the Coston's Department in Jieir Paycon; that they rely on Circula, No. 10: 477: 2015-04 dated 01,02,2015: that at the time of recording or stabbliont of Appetiant No. 2, sold Circular was in existence which implies that windgel Show Cause Notice was wrong yirsylad to Impose band by that Apoel aut. No. 2 was not liable for behalty under Rale 16A as the Department was well aware with the issue under damper since the issuance of sale fire damped. \$3.32.2016; that the adjust cating authority has passed the impogned order in gross wide agreement for the Bright of Schild for the Bright and the Bright Park (346). 49.1 (1m. whind.) in case of Shalu Synthesias Pv., Edd.; that beneate under Section III AC of the Act is not imposable if the issue is relating to interpretation. of the provisions of the Act: that they toly on padgment reported as 2004 (163). ELT 14 (CESTAT), 2005 (184) ELT 61 (CESTAT).
- 4. Personal Hearing on the matter was attended by Shri M. K. Maru. Cassultant on behalf at each Appellant Na. 1 5 2 and relicerated the grounds at the supposit and submitted that he is not to add or modify any sounds ion is add the same.

Findings:

- In the name of retailing game, through the facts of the sesse, the impligned order. The Appeal Memorasics in and written subsides one made by noth Appealance. The result to be decided as as to whether:
- (i) Central, Chronical Rs. 197(30), 2017 (notion by Appellant No. 1 on tue 5 is correct, or required to be recovered from Appellant No. 1;
- (ii) imposition of parally on Apoal and the A is Appellant No. λ is correct or otherwise.
- 6. I find that the crax of the issue is that the Department is of the wew that Cerwin Circle of Additional Circle of Sustains (CYD) had on such oily high speed diese, oil (M.S.O.) & Lab. Oil (inside endire round bunker) availed by the

Programme to

 $(\sum_{i=1}^{n} (i,j) \sum_{i=1}^{n} (i,j)$

Appellant No. 1 was not available to the maintering series were not used to the maintering series were not used to the analysis of products by breaking the ships out were directly taken but and sold in open market and thus saint 3,000 for considered as 'imput' as desired under But a 4(4) of the Butas.

ors on record that as parting Note No. 9 to Section XV (Chapter 72 to 3%) or the echedule if appeared to the George Excise Catti Act. Ewil, the georgiand insteriols obtained by process of breaking up of shall can only be considered $oldsymbol{\omega}$ ille "excisable goods" as defined under Section 2(d) of the Act as well as the fundi products! as demaes under Rule 7/h) or the Rules so for process of Neaking of ship is concerned. As per Rule 3 of the Rules, a manufacturer or producer of final products is allowed to take product of daties of excise or the additional Duty of Sustanas (CVD) pale out any "logot" received in the Fertilia or menufacture of final products for use in, ar in relation to, the transferture of That products. As per Rule 2(k) of the Rules, the word "hout" means all goods youds which have no relationship who spoker with the manefacture of finalproducts irrespective on disks/figaGot of the goods under Central Exciss or Customs Tariff and whether any guides one objection as 'impubling not depends on its usage in the process of manufacture of it of Beat procures. You Appellant No. 2 in 1 is statement dated 25.70.2010 denoted that emmediately after beaching of a wasse, at stelloging breaking pool, at the fitels and of a are: removed from the besset and sold out without storing the same and without using a gazappt a few quantity of HND Chilisen as the, for operating of $0,\,5,\,5et$, Whiches, Cranes etc. at their ship breaking plots in the process of obtaining gaads and materials by precking up of ship. $\sum_{i=1}^{n} \frac{1}{2^{n}} \sum_{i=1}^{n} \frac{1}{2^{n}} \sum_{i$

the unnested goods classified under Central Excise Tariff wWSZKUUU for the purpose of levy of CVC being an internal part of the vessel; that white i tog bills of antity they have declared that they would exact Central credit of CVD; that CESC side Circular dated 23. If 1957 has a routy hold that entire soin except ship spaces are classifiable under avXS is an input taking part in the activity of slip preaking under flore 57A or tille Central Excise Builds, 1944; that displical goods the classifiable under Central Excise Tariff 8938.00.00 and obtaining/removing the oils from the slipp is directly newly with the rear itacturing activities; that has one abtained/recovered from the vessel is to be termed as non-excissule.

goods, but the same are to be contect as by products emerged during carrying out them is. Turing process, that as an extensive they recent or 81 of Entry No-SBY/76/2015-15 leated 25.08.2015 filterinar Nos. Ghas from Goszumand Sing Breakers, Plot No. 03, SBY. Alang, the proper Customs Officer has classify such oils lying thatde for engine room once: Control Exclar Tartff No. 8908.00.881 and assessing officer has passed a remark on the body of the said 8 it of Entry dated 76.08.2015 as the assessed as bunkurs contained in the curside tanks classicable discer respective Treading, in terms of Chausai No. 37796-Customs dated 0.007.2017 which has been confirmed by Hor/Dte Sapreine Court have field that such as occurred classification of same goods under Customs Tartff Acc is safe contain of customs authorities and transfers, outside the pursers provisionably assessed under Chapter 70.09 that Carolina carrifled the issue by way of Circular No. 1014/12/2016-CX usued the CV 70.09.

- C.3 And that the dispute in question was planthed by EBEC was back with Circular No. (77:95-5 us, date). 03:00, 1996 insuled mod (Fillia), 512/22/85 (Cip. VI) as under:
 - (a) movable ignars is childs. Inting and handling reachinery, laborary, makigetional equipment, machine sools, fire fighting equipment form part of vosseus normal equipment and bence classificatu(fi 89.06.)
 - (i) Fireflood off the fallocal in the vessel's true specified and limite be described as forming integral part of the vessels and limite be described upon Handling $d^2(0)d$.
 - (c) Spares parts (such as probellers), whether or not in a new condition and movocile is attoos (furniture). Whether inquipment, table ware etc.) showing these discense of use and within lawe furned unit of normal equipment of vessels, and classificable under heading \$9.08.
 - d) Hemaining fuel and of, [eater than that mentioned in sub-bara (b)], above and offier ship stores, including drinks and foodstuff are classifiable separately in their own appropriate beadings.
- 6.3.1 Heavitie High Court as Cuprost in trase at Mas. Phys. Hollangs (2) 11(4) reported as 2013 (288) ELT 347 (Gu), that here that τ

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"12. As can be according to endorse on record, has come to the cordinate that the tief contained in the engine tanks would form an integral part of the vessel's machinery and engine, and therefore, would rall (order sub-page) (b) whereas the remaining fuel and oil contained in other tanks would fall within the ambit of sub-para (d) and would be classifiable under their own separate readings."

6.3.2 The above views were a pair all times by the iron ble Segaratic sphilosoft for case of W/s. i. M. Industries reported as 2014 (302) FLT 382 (6.6). The Portible CLSTAT, Anticopted in the case of W/s. A. G. Entermise 2014 (308) FLT 476 (Trit-Almida) hold that even that sucres of Side engine room are on integral part of Messel's mack dary and to be prossifted under needing 89.38. The recovant part is reproduced as capes:

17.0 earchath sides and purpose the class remode. The isoverneoused in all those opposis is an provide some latine. She classification of HSDI DO, in the their Method which reported had in the first takes in the versels bid, ght for propring. As portion CSPC fronter haded the FAUCO and the cross purpose, by common owner (appeals) such that need notes through factor froding Agancies, open large, on the investment, grand that ISDI is not a point by magnetic transfer for the people and and set of on the other large set is an elementary for the propring the subspect of the people and a property of the people of the control of the people is not the class of the DSPT under the bid. I also see the exception is paid for such that the class of the people of the decreasing the find the class scale for the engine manner of the people of the versely property and the decreasing the find the same of the people of the versely and the control of the people of the versely and the control of the people of the except and the control of the engine of the except a manner of the people of the except a property and the control of the except and the except a property and the control of the except and the except a people of the except and the except

(Emphasis supplied):

C.D.3. The above views of the Horrible CESTAT7 (light) mint were artimated by the Boureau Court reported as M.R. Mapping & Allied Industries Pvt. Ltd. - 2000 (1977) - ... T. A726 (S.C.). Tiles, it is without doubt that the level knowly outcode engine room form part in paint of all passessels imported for breaking and are classifiation upon ter Heading 89.08 only.

6.4 In wow of above, find and all contained in the vesse,'s machinery and engines (inside or outside engine room) are necessarily part of a strp and classificatio under Heading 89.08. The abip carried set and reach the simplificacking yard unless the fuel and oil is present on board. Further, fuel and oil are also required on posted for generation (if electricity for consecuption for operations carried out by the sleps. What is amounted, therefore, is a strong that one of, which are integral part or it. It is an record that the feets and oil

had not nace imported separately, an this case but imported as pain of ship stones. Therefore, I hold that when the ship was imported for breaking up, the tuels hillotts available on ship oven as stores form pain of the ship and are, dietefore, inputs.

- 6.5 It is a common provide that recitant of, and of, are iscessarily inquired to be removed firstly for the purpose of safety and efficient operation. Therefore, fice, and bit available or ibuard of ship are increase of precising up of ship stems with removing of the and oils from the ship wowelf as other removable actions. Therefore, removable of oil is nothing but part of manufacturing process and all the goods including fee, and oils are inputs for the purpose of ship breaking unit. Therefore, CVD paid and availed as Central credit is nothing by a CVD paid and availed on inputs for manufacturing process up, ship breaking carried out by Appellant No. 1. Therefore, I connot find any near in benefing Central Credit of CVD paid and thy Appellant No. 1 on the critical ship, Insperted for breaking Accordingly, additional duty of customs paid on fuel and oil contained on board of ship, is available to them as Central credit for utilization in payment of duty on the goods and material obtained by breaking up of ship.
- 6.5 ratis pertinent on montion here that sulps are innocost it as lucia for breaking durpose and charged with Cristoms duty hased on the value accorded by the seller and the buyer through Venicrandus. Of Agreement based on Light. Displacement increase into L.D.F.; The ship includes fue, and oils, foods stuff, teverages and other religional items insection summing of ship. Apart men flustoms nute, Additional Bulty of Customs (CVD) is also diverged and collected under the Larger Dark Central, Excise duty payable or like goods as not paractured in India. The ship because using were having Central Datase registration for periodal of goods obtained during breaking up of all his and Davy have need priving Central Excise duty accordingly. Thus, EVD is charged and collected in upp of Contral. Excess unity unespective of this fact that the same is not manufactured by the $\,$ this breaking unit out imported with the ship for preaking purpose. Therefore, the entire Khip including mems on board are impublifor the purpose of Central Excise duty payable by the ship breaking units white hemoving the same and they phy Central Expise blay as well. Thus, CVC paid at the lamb of importation of ships is point and partial of daty (dement which is available to the ship freaking unit as Canvat creats and taby can at use the same white discharging their

Page Michael

Control Lacise duty on the items removed from breaking of ship as well as removal items available or ship is usuding (sets and oils

I fine that the intection at the legislature is not to delry Convet credit of CVD paid by ship breaking unit at the time of payment of Customs outviend infiltration thereof walls paying Colura. Fig. se (I)(b). Therefore, CBFC issued Circular No. 1014/2/2016-CX range 01.02.2016 which is re-produced briow for very reference:

Circular No. -1014/2720-6-05 Coloubline 1st Arbourns, 2015

Should MAY 14-QX 1 (PQ)
 Government of Thill:
 Writingly of Historie
 Department of Bresin is
 General Court of Exists & Custo

i Primiting Peter Jelmi, dated the feet Teerualty (2016)

In Principal Child Commissione v Civel Commissional 7 Price usu Commissione (n

Derive Tourse and Dietoric (all)

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Subjects, no hadou of sleep native reduced togeth in relation to tary of . CAD one was all substitution for breaking in the Mat. Booking.

References have been received in the Coard from trade and field formations in a tribute of the specimen of the first series of Gujana classical in talk not turned in the tree by 20%. Showing Engineering Company, and adher a repeated by 12040-1014-5014-1034 with \$1,51 to \$1.4 had been been fried by UK Reportment in Hamilton appeared contagoing this open.

2. In the said (edgement, the fide stills of the state x that any none methal, again x_{tt}^{2} , where x_{tt}^{2} is the small that note that note and the subject of a position of manufacture. Article: which are not produced or none in the subject of in a sylofteer which with the important of the state x_{tt}^{2} is a state of the state x_{tt}^{2} of the state x_{tt}^{2} is a state of the state x_{tt}^{2} of the following and the consequently of adoltonal output ones. Settles X_{tt}^{2} or the Customs Taill' Act. 1903 can be levied on it put to inch grown. The involve for such conclusion by the Taill' Act. 1903 can be twiced on it put to inch grown. The involve for such conclusion by the Taill' Act. 1903 can be as on the whom are not present an install and ranks to the small expensions.

is to seek of allowersed purgeoneurs trade are collowing fred different practices, as an interated below and are being respect Show cause Plottots occording to the practice chay takewis.

See 15 of 18

(9) Show Course Net cas have been issued to improve who are including a whole marking (10). In other case department has appeared eye as the order or the Lordon light Court of Gujarat.

(i) Show Come. The local first energy are the more in FRAM containing these been benefit of those importance who are paying CVD you movely and taking CDIMAT credit and utilities that is not payment of Cotton, Books care flatifier a facigative to the reviewing of which.

The problem forced by the mase due to basic of Show Cause Abalicas in elitical standard was been examined in Data and it has been denoted, the full 3 now Cause to it in the remote was entired by the period of 1.9.1 period, energy shows the kept in 1.90 through the Sup Place by the network ment in the Pionole Supreme Court 3 decides.

- a Norw Cause betwee decaying Cernot Capolitical CVD paid you mainly by the importion to the time of import is not waitance. It is well subtent position in the 0 kind over making the latter of the object in supplied by paid above 1 to kineys of otherway case law may be netgored; 07 may CLSAT2006 (202) ELC 7839wait PC DBI, CCE as Rankesy table Ltd. (2006)303) ELT 2139PSH HC DBI, CCI may John the Common tensor of particles and the incommon tensor of particles and the particle particles of particles agree the particle particles on muly gave any or set of particles agree the particle particles on muly gave any or set of the particle particles of the particle particles of the particle particles of the particle particles of the partic
- 6. Thus, protective improves the period (All on import on step in entwice entire of these) Whoshing be desired for payment of Contral Excise duty on breaking of that stip. Show Cause Notices aircridy is also your Consultantial materials in the maintain of those instructions and in full related such forces and excise a second or excise and an excise and in full related such forces and excise any notice assets.
- 7. Mar. vi.5. Red ikution Ho. 1/2016. Co. La. Eschenk." ("Lated 64.00.20 6 il. disc CENVAI valenti Purva, 2004, in ann 3-ir alber he (1), i muoso (-ri), de provincias hab mait esc.
- At Province of the St (1)-ii) of CBANAT Could Rate: 2004 was had to disconsistance for the 11 feature for so (21), as not 1.7 2001 in 1 measuring of a pure asabotal dissolation by Jacks metals and after each case metals we which are resented to an invarious breat as provided in section mode and best by Section 2015 the this Properties for the Certain Probe Papill Ant. 1183-of the still of hand, a number of used out/locable and decreases beings, an conditionars, and then the manner, resonance and a solution generated. These are generally sold as section and transfer to the continuous establishment of papillars are generally sold as section additional duty of tustoms para on the thip when it is imported for breaking. This are many was resoluting in recess additional and the same time, the the Rate of the CBNAT credit materials was resoluted to breaking. This are many was resoluting in recess additional as some to that Certain another additional and the deal of assertion that Certain and its adjunct Legacowed in excess of 85% of the arbitrary of the properties of an invariance and the interesting the same of 85% of the arbitrary of the original and the interesting that the arbitrary of the certain and the following the excess of 85% of the arbitrary of the original and the interesting.
- 2. Further, americanons in Rule 6 of CENVAT Creeks Rules, 2001 was comied out in pulges of 2004 to provide that now and it is positived to be obtained for an extraction for its point of an itemporate of national entire extraction goods in the problem of national entire extraction provides goods and exempt groots as call and the great entire that are the convergence goods and exempt groots as call and the great entire that are the convergence of the second entire that are the convergence of the conver

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of them. If nearly at notices, but it is the first of all provides another the purpose of this rule, exempted goods or the proposes of this acceptance of a provides as network to the sum of and the of this 2 shall include a on contact agoods depret for a contideration from the tarticity.

III. At proof it there is a conflict reserving review, or field to relation to non-expected which manages using a taking of this war we when he incident removal of credit needs to be determined in the Board States of the SMAT Credit Rules, 2004. To reserve the territor, the physician restriction (LAVA) credit to 455 cover position of the new Signal of the SMAT Credit Rules, 2004. To reserve the territor, the physician restriction (LAVA) credit to 455 cover places are now Signal of Cover Credit Rules. 2004 for the second credit Rules with a notable lighter of the physician restriction of the territory of the second credit Rules with a feet the conflict of the second second second credit Rules of the second credit Rules of the SMAT Credit Rules (SMAT) the second credit Rules of the SMAT Credit Rules (SMAT) the second of the second of the second credit Rules (SMAT) the second of the SMAT Credit Rules (SMAT) the second of the second credit Rules (SMAT) and the second credit Rules (SMAT) and the second credit Rules of the second credit Rules (SMAT) and th

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> plantists Comes Websig. Discriptionary in the Government of India.

7.1 Para Drin' describ covers the issue involved in the present appear. USEC this also mentioned the two only for Show Cause Notices issued for detail of Cervatories the CVD by more immigration.

The <u>Marke Conservations demand Compati Checkt</u> of (19) pand valuagative by the impagers of the burds of models as not well as the first position is how that a lease may want Conservation in Supplier less point of the initial regard militaring case flowings the referred. (11) as CC94T20C0 (202) But 752Wat I C BBI, CCB vs Parbase Laborate [2006;203) But 2 3(78) in C BBI, CCB vs Parbase Laborate [2006;203) But 2 3(78) in C BBI, CCB vs Parbase Laborate [2006;203) But 2 3(78) in C BBI, CCB vs Parbase Laborate [2006;203) But 2 3(78) in C BBI, CCB vs Parbase Laborate [2006;203) But 2 3(78) in C BBI, CCB vs Parbase Laborate [2006;203) But 2 3(78) in C BBI, CCB vs Parbase Laborate [2006;203].

- At This, court is imported in equal (200 participate of step, Constational) of that CAL cannot be a entired payment of the transfer of the description of the step. Since Constitutions and the effect of the description of the description of the constant of the constant of the step. Since Court Hoteless and the constant of the constan
- S. Incretore, the issue is no more reclaraged in terms of above position can fied by C3EC vide self-Circular cased 01.03 70%. This, it find that the present or involving of Carvat proofs is not systemable. Since denial dilibelities as sustainable, possitions of paving interest and in loss 30% of parallities on both the appellar is are also not warranted. Since it is being how by inclining order

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that the undegree order is not sustainable in law, it is liable to no set as it. Although y(y) , although appears files by both the Appellants and set aside the impulsed order.

- ह १ 💎 क्यों तक तीनों दारा दर्ज की गई अधील कर निषद सारू संस्थान वर्शके में किया पाता है।
- 5.1 The appears filed by the Appealants stand disposed off in above to ms.



<u>47 RBAS</u> De

	एक, अन्यत्र (देश देशेंग कार्य, अव्यत् (अन्तर - शामनावर
Stin Visabikumar Supte, Authorsod Signatory of MAS. Ashwin Corporation, Plot Ma 77, Ship Breaking Yang Alang, Bist (Shayrage).	यी विश् कुलार हु : भेरतंत्र अधिका कर्णोरकम, उनतंत्र भेरावा : एक. अनंद्र भिष देखिंग आहे. अनंद, जिल्हा आकामम

Cupy from igtor morrow and necessary action to:

- *I The Cliff Commissioner, GNE E Lentral Excise, Atmodanes Zone, Juniedabad remais kend Jordu patian.
- 2) The Countinssioner. SAT & Const., Excise. Shavongan Commissionerate. Bitak tagar.
- ByThe Assistant Cummissioner, G5T & Cortina, Extise Phylonia", Ebay regar. الأمني Guerd File

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