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- ৰন্ধ হৈ যে উঠা সময় পিছা গৈছে। গৈছেই জানে বিজেপেৰি বিজেপে বিজেপে বিজেপে। এই উঠাৰ বাবৰ মান সমাল প্ৰায় সময় হৈ এই সময় হৈ বিজেপি আৰু পুনৰ বিজ্ঞান সময় আৰু মাই বিজয় কয়ে কয় সময় সময় ই পাৰ প্ৰায় মন প্ৰায় বিজ আৰু 1 বিজ প্ৰায় সময় হৈ উঠাৰ প্ৰায় সময় সময় সময় হৈ যে বিজ সেই সময় কয় কয় মাই বিজয় কয়ে। মে সময় সময় কয় হৈ আছে প্ৰায় বিজ সময় হৈ উঠাৰ প্ৰায় মে সময় সময় হৈ যে বিজ সেই বিজ সেই সময় কয় মে মেহাৰে বিজ্ঞান বিজ সময় হৈ বিজয় হৈ বি আৰু বিজ সময় হৈ উঠাৰ প্ৰায় মেৰা মে মেহাৰ মাজ হৈ যে বিজ সেই বিজ সেই সময় কয় মেহাৰে, মেহাৰে বিজ বিজ বিজ বিজ বিজ বিজ বিজ বিজ বিজ প্ৰায় বিজ সময় মেহাৰ সময় মেহাৰ মাজ হৈ যে বিজ বিজ বিজ বিজ বিজ সময় হয় মেহাৰে, মেহাৰে বিজ বিজ বিজ বিজ বিজ বিজ ব 100
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- rent stiften ståret at står after and til 2005t och sigerige for ståre var stor var bet skildet forskel far to Svend som sig af for tall for Torste sindered, den na med bett bostfore fan ny bling of needs i den figer og allesendered en graden og y Marte de senerte af sette sovelde ger o 1.51

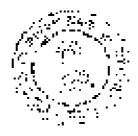
# U ORDER IN APPEAL 3.

T

Mis. Medita Sales Pvt Ltd., DUTL, Piot No. 73/74, GTBC, Chills Ensynager (commatter referred to as 'Appellant') engaged in the manufacture of Precipitalged Stica classifiable under Chapter sub-heading No. 3824 9025 of Contrat Excise Tariff Act, 1985 filed sopeal against. Order in Griginal No. 46/Demand/Exclass/2016-17 dated 28.07.2017 (coreinalitar referred to as the impugned order) passed by the Assistant Commissioner, Service Tax Division, Shewrager (convestionment to as the lower adjudicating authority).

The anel faces of the case are that the audit of records of the Appellant. 2. revealed that the Appellant hart used M.S. Angles. Channel, M.S. Plates, etc. for fabrication of plant and machinery etc. and taken Cenval credit of Re-22,49.036A as capital goods a legacity in contravention of i provisions, of Rule 2. of the Cernal Credit Rules, 2004 (Institution Information as Ithe Rules') and against instructions, issued, by GBHC, yilds, F., No., 257/11/2010-CX6, 46:50 09.07 2010 that Cenval Georgia on items like Cernent, Angles, Channels, etc. and other items used for construction of captory shed, building or eying of foundations of making of abactures for support of capits goods were not aligned for Cernal credit. Show Causo Notice No. 3/16-04/Den/HQ/2013-14 deted. 11.00.2014 was issued to the Appellant demanding Central Excise duty under Section 11A of the Activate with Build 14 of the Hules and Tryprest Under Section 11/A of the Actions proposing (panalty under Role 15/2) of the Roles read with Section 13AC of the Central Excise Act, 1644 (hereinafter referred to as "that Act") on the pround that the apportant has invrongly availed. Central predition incligible terms. The lower acjudicating authority, vide the impligned enters, combined demand of Rs. 22.49.038A elong with Interest end also impreed. senalty at Rs - 22.46.6284 under -Rule 15(2) the Rules road with Section?1AC(1)(a) of the Apl. No. Ser

Being eggtieved with the impugned order, the appellant present the present epgeod, which effer contending that the lower adjudicating autority has not expressive class of the government approved Chartered - nginner who issued certificate effert ver (Virg) the facts are technicatily. That the lower adjudicating autoprity has energing the facts are technicatily. That the lower adjudicating autoprity has energing on during that disputed items cannot be termed as components, spares and accessories of the capitel goods; that disputed rems have been it used to manufacture capital goods captively to manufacture excisable goods; that definition of terms Components. Spares and Accessories to provided in Foreign Trade Policy according to which :



Huge Halparday.

\*\* "Accessory" or Attachment" means a part sub-assant)ly on assembly that contributes to efficiency or others venees of a piece of equipment without changing its bests functions.

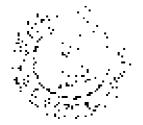
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-> "Component" means one of the parts of a sub-assembly of assembly of which a manufactured product is neede upon and rate which it may be resolved. A component includes an accessory or ettechment to shother component

-> "Spares" means a part or a sub-assempty or executivity for substitution, that is mady to replace an identical or similar part or subessembly of easembly. Spares include a component or an accessory.

3.1 The above definitions chould be considered for the purpose instead of meaning accorted by the ower edjudicating authority , that the findings of lower BoltdRalling authority that components, sparts and assessments are tagt (ingligoods and not raw material for manufacture of capital goods are not correct, as it. depends upon the usage of items as per Sule 2(a)(A) or Rule 2(k) or the Cenvel Group Bulos; that findings of lower adjudicating scheming that flow chart of the erealism and manufacturing process, of capital goods had not even substitled. and therefore. Getvatiered treached be a lowed is not legal and proper as there is to 8000 provisione under Cenval Credit Rules; that relance plante upon Exploration 2 of Rule (K) of Convet Credit Rules is unwertained; thet nether and) officer nor the adjustmentary authority had put forth any documentary. evidence to prove that the disputed items were used for construction of factory. building/shop or syng of foundation i structure support or divi work and therefore, the incpugned order is not egal and proper. 4.58

3.2 The appeliant contented that the dispated items were received during the period from 2007 06 and Cenvat credit was availed in the year 2005 and 2009 and Certificate of Chartered Engineer was rasued on 28.05.2008, however the impogned order (tid hot accept the certificate on the ground that obcographs of machineries were not given / submitted to him labe Certificate did not constate with the involces/marking on the items. that the Charte ed Engineer had insued the Certificate of usage of items after its utilization, that identification marks in form of emboding of tata. Host Budra did ware available on the certa used; that photograph, of meethering the literia and the laber available of submitted to him and contribute the laber insue that identification marks in form of emboding of tata. Host Budra did ware available on the certa used; that photograph, of meethering, Cenvat credit coanter be denied on such grounds; that the layer adjudicating authomy has ducted does on of the Honthe Larger bottom of CHSTAF in the case of Wie. Vandena Clobal Ltd. reported as 2010 (253: ELT 440 (Tri LD) bot has not considered subsequent case, arks as under



"Ng: NL 41122

#### 5D Mundra Perte & SEZ Ltd. 2015 (38) STH (726) (601)

Control creats of Netrilie Tax - head source - Cement and steel used in construction of new jetties and exten constructed buildings. НОО с прредакт селодой уже трое стеди анд и сакнот де treates that since construction of jetry was exempted, appellant, mould not be easilied for Equal country improved order set and: Rules 296 and 295 of Central Credit Rider, 2664, [Para 9]

Cannas Cradit Rulas, 2014 - Anandram in Sciplanston Lo<u>Chile</u> 2% (but we of  $\sim \sim 2999$  was not clarification pite nature . Wherever, Legislature wants to clarify the provident, it clearly methods. bucation in the mailfunction and and rester in clarify entrony provision - Vellanados Laszen Junistik energia Vandama Global Led. [2930] (223) KTAT 440 (181-484) shee interstop of Legislature. which accerdingly was to charge the provisions was based on anginitaria districtminen (Para II).

(ii Jachsur Allsys Pvf Litt 2013(292) FI 449 (THOD)

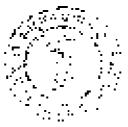
Receivery of Cleaves events - Analled on purchase of steel thems for faintextion of conding heat permanently exected to conthresed for rolitry nulls - Rolitry null covered by Heating 84.55 of Centrel Eachers and file capital goods' as per Rule 3(a) of Connat Creder Rules, 2004 Cooling bod is compensat of colling still even through it needs to be permanently fixed to canthe. Steel come for fabrication of cooling bod are inputs used in Schrednen of comparents of college wills. As such covered by definition of inour ervier Bale 2-81 fiel and charble for Convat credu - Impogred under en sande - Reis 14 abril (Para 51

Perfe Products Pv., Ltd. 301

### 2016(343) EL: 458 (Tri-Bend)

"Connat – Inpuzz - Stool nacht nach in factory für sturing tugate and finished goods - if in over starage faelilty is not worlded to the goods handled by appellant, then there is every possibility of constantivation of the confectionary products - 115229 : As perdefourtex of "regue", is renor necessary to provide the goods should he used in an in-sulation to manufacture of goods – As long as tigrate are used for any other purpose of production in factory. premises, the same can be termed as support. Therefore, in view of statutory definition of upper and requirement under the Erroration. of Poweldullenergy Act, 1953 recentling the normal of desiry. the raw metartal and finished product, it can be soul don discover goods are very much essential to be considered as lease, work in on in relation to manylacture of final province - Rick 200 of Convert Ground Bulles, 2004, (Barra VI

Demond Lementers Fact regarding only of Consultant Mit Mar huma to Control Every Department well in advance therapy for returns filled by openition and aim periodic main committed by Andli Wing - Proceeding Increase by Similation - Extended period. of humation and have appendic that of Contest Press des 2944. [≥ m a b]<sup>\*\*</sup>



Sest in

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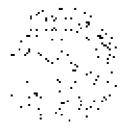
3.3 That in view of above table and legal position, the decision of Mvs. Vandana Clobal Ltd. Is not correct and not applicable; that in view ill elucider, for of the appellant and the case laws on the leave, demand is not sustainable and interest is not chargeable and penalty is not imposable apos them

4 The Assistant Commissioner Central Excise and CGST JM SIGD, Bhavnagan submitted report vide H.No. IV/11-36/Mise Coltes Receiveny2017-19/1197 detect 18/12 2017 wherein the, *Index al*fa, automitted report in respect of Criter in Original No. 12/Demand/ Excise/2017/18. Orderkry-Original Nos. 49, Reand SIMRement/2016-17, letecting liter the disputed goods have been used in efferent plants of the factory viz. packing plant, boiler, ess, prusher, meter atom the equation of the ebody belogible of the disputed goods and its extremition at pariou as plant caule not be ascertained; that the disputed goods have been impally beed to alrectival construction for supporting capital goods / machinery. that structures such as stars, platforms, targets with the help  $\mathbf{x}$  channels. Learns, plates etc.; that callies are praced on the schedural construction carried out with the help of 1MT bars/angles/channels etc.; that the disputed goods like SS Palli, SS HR Pietes, Sheet, beem used trade, the cutol; ISMC teed in Coravon. Plates used in Coal fire are air penerator. SS Path. Coil, SS Flat used In not air duct were not visible; that racks, conventional pailet packing, spares were used in tacking system spray arger for exorage of Thished goods. that MS engles, SS Round were used in memorance of storage of all plant spares; that some bibes were used to be sport waste water to afficient freatmont stant wherein water is perified and then decharged outside the factory premises.

the risk of the

4.i Personal heating in the matter was attended by Sh4 R. R. Dave Consultant wherein he, inter also instituted the grounds of appeal and submitted photographs of the niaphineries where the disputed inputs work used. to fabricate parts, components, accessories of various plants and maphine/93, that he submitted marchineries headline and uses of those machineries mi manafacture of their final product, lital Cerwa, credition M5 angles, channels, cons, plates used in stairs to supnort structure/civil construction have not been taken; I that period of 2009-10 and 2010-11 involved in this case is prior to reservion of exclusion datase, that behally is not impressible as they have taken. Convet credit on inputs actually used in the manufacture of parts of capital goods. as slipwed under lew; that domand is time barred as Show Couse Notice has deen issued on 11.03.2014 for the year 2003-10, 2010-11, 2011-12 when no suppression of facts stoll is involved; that they have filed arouldly relume regularly and the department do not rese any objection within normal parted of line. The appetant submitted item where explenes on along won the photographs

Page No. 6 of 12



of machineries as under th

### <u>"Ekste Kr. 21.-</u>

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This is a photo of Ak ClosesTee IAN benj 7.000 i e inchang mene and of 80%. Constants, M.S. Acule and H.R. Contraction of the Mith American to Show Course Modeci and full under Chapter Solid Instanty No. 14213956 of Central Excise Farth Act. 1685, required to America as separated of finished products to separation of An and Solid (Powder) contained to Aristed products. The Aristed craduets cannot be marketed without Nill process.

#### Priority No. 112-

The is a photo of IAN Lag Filter (c), howing from out of H.R. Coll, H.R. Pate, 1940; M.S. Channel and M.S. Pipe (B), No. 35 to 66 of Annexise II. Binne Course Notice, and tak under Chapter Sub-Hawkey No. 542 (1946) of Chemiel Forces Tent? And, 1856, required for Exclusion expensions of tradient protocols is expension of Are and Soud (Powder, contained in Anabes presents, The Anabes products cannot be medicited without Staphoesis.

#### Photo du. (215-

The is a proto of Jeray Dryer chember which is part of Sprey Dryer made out of 3.5. Shoot, 5.5. Flate one H.F. Deli (St. No. 57 to 61 of the Auroxure to Show Event Mathed with the under Conjune Amerikany M., 54572 (10) of the Central Lance Lenn Are, 1905

Al me modularies are bonested within Factory Premises and Installed / Erected / Contraissioned without control cut any Construction Work as well as no activity of Construction of Structuret Foundation is required Machines on your of any insolvation of applicate Technology of the starse Mechines way be distribute every war around the or westerand it may be assemble at other Marie of Lectury Frombos

Al 512 Biologi membring a general by the process of Manufeston of avietics a summer former etc.) when the proved or required in payment of they will be

\$ 35

4.2 The appeliant also submitted Write up doiing personal hearing wherein staga-wise process and utilisation of vanous mechanicies is shown. The details of the processes submitted by the appellant are reproduced as under -

1Stege 1

The socium slicale glass from the truck unicated in the motor sector siteate Unreading platform through Truck Infator operated with tab hep of Jack. The whole truck gets titled on the Platform and unloads the SS glass within short particle of time. This will save the manpower to unload the material and time size

Then the addium slidele Plass is being toos in the moter bodge, Undugn bucket elevator. The Meller hosper is shuated above the meter having lead cell to feed the fixed quantity of SS glass in to matter. If the meller hopper outlet we have connected Y on the Houte – Callot Y place – to feed the SS Glass in two matters from one hopper.

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Page No. 1 o. 25.

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The function of moltonis to bisactive the glass in water under the pressure of 4 KG at kinp, of 160 degree. In the mater the SS (case is being feed from the feed hopped after opening the too 4d of melter. There is a patient on the ideller where the operator is footing the glass. Then the water is being feed in the meter and scent is green to raise the temp, up to 150 degree with pressure of 4 kg/sm2. The steam is supplied from the being dissolved in the meter through pump and after 2.5 hrs the complete glass is being dissolved in the water. By this way the sound scentim situate sign, mell in the water and become (guid situate.

This liquid stipate is barrsferred to the unloading tank where we check the quality and then transfer it to setting tank. In setting tank the liquid silicate is being kept for 24 his to settle all the impurities in liquid silicate.

The Solitied liquid silicate is being transferred to procees tank. We use this settled liquid silicate during the process in reactor.

#### 512ge 2.

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In stage 2 we are completed for between liquid eitcate & Suphuric Ackl and water in reactor. We provide elean to maintain the required temp, in reactor. With the contrailed flow of liquid silicate. Acid and water at a required temp the prepipation start inside the reactor. We have a reaction bater time cycle train 1 hr to 3 hrs as per the grade & quality to be produced. Once the reaction completed the aury is being transferred to 8 juny holding tank. The reaction process is hully automatic for all the bateness and controlled by DOS to be there is no strong the reaction process and controlled by DOS to be the a tory in the reaction process.

#### \$16gн Я

The skirty produced in the reactor is being teed in to filter press tomoch pump for separation of fould to solid. During filter teeling the High IDS water is coming out, from the filter press. In one Righ TSD water there are chances of silical going – when any cleth got damaged. So we are collecting the fligh TCC water in to HTCS task are pass this water again through filter press so that all os could not goes in waste

In the filter press - from the surry the water gets removed and doke of sitical tormes. The cake is being transferred through belt conveyed to Scrapper thospor which give control feed of cake to the cryer via paddle mixer. The situe cake is having MWA moisture.

#### Stage 4

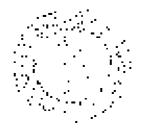
There are two types of dryers — I. Hash dryer and 2. Spray dryer. In **Nash dryer** the slice cake is being feed to the page mill where the cake gets disintegrate. We inject hot air in the cape mill. The I of all is getterated from the bot air generator and conveyed from hot an generator to the page mill through not air duct.

The cake come in contact with bot all and water gets temperated from the cake hence Cake is converted in to provider. The stream of provider and air page through the deglifter for the screater on of air 3 split (powder). The bau (the ja fixed on the resting structure

The finished payder from the bag filter is being paseful motulin the VDM, shifter to remove any foreign material from the finished product

The powder is being conveyed to the timished product sile with the help of preumatic conveying system for packing.

Maga No Kato 2



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In Spray Dryer the erice cake sends to the story preparation tank (Equivariantian tank) where I, gets mixed with the small properties of acid and the cake is converted in to story. The story is being transferred to clony holding tank.

The slurry is food in to saray dryer Brough screw feed during in spry driver the slurry is passing through atomiser wheel. The dryer platform is being fabricated to operate the anext dryer attached to Bie machine. The net all is being injected in to the dryer chamber where the water gets evaporated from slurry and powder separated. The the particles of powder are being collected in bag filter ( Bag Fiber – Annox, Sr. No. 35 to 56 – HR Ceil, HR Plate – ISMC - MS Channel – MS Place – Photo No. 2) and the teavy particles are collected at chamber ( Spray dryer Chamber – Annex, Sr. No. 57 to 61 – SS Sheet Sheet – SS plate – HR Ceil – Photo No. 3). The silica powder is conveyed through the sarek conveyor to yible screen for removal of foreign material from the finished product.

The powder is being conveyed to the finished product sits with the heip of pneutratic conveying system torpacking.

The Spray dryon totabled material is further quinding in to AC Mill. An Classifier Mill to reduce the particle eize of finished material for the special application. After grinding in the AC will the material is send to the bag filter ( AC mill bag filter – Annex, 64, No 1 to 54 – MS Channel -- MS Angle – 108 Coil – Photo No 1) to remove the an from the product. The finished material is packed from the bag filter.

#### Stage 5

1

The function powder is then conveyed to the Pro-hosper with the help of rotery veive & screw conveyer. The pre-hosper is a feed happen for automatic packing machine. There is slide gate valve below are hoppen which control that now of powder for packing. The automatic packing machine are of two types one is for small bags and language is for jurace bap packing.

She Producer

4.2 No one approximation the Decertment despite personal hearing notices, sent to the Commissionerate.

#### Findings :-

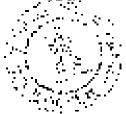
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5. I have carefully gone through the facts of the case, the impugned order, the grounds of appeals, written and one supmeators made by the expellent. The issues to be decided in the instant appeal are -

 a) Whether the Impugned order confining demand of negutarly availed. Cenvat credit of Rs. 22,46,63304 under Rute 14 of Convet Credit Rutes.
 read with Section 11A of the Act is caned or not;

 (ii) Whether interest is payable under Rale 14 of Convat Credit Rules, read with Section 11AA of the Act

illi Whether behally adual to dentand under Rule (5(2) of Cerwal Credit. Builds read with Section 11AC of the Act is imposable on the Appellant or not.



Page No. Po#27

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The lower adjudicating soll only has confirmed demand for Cenval used. <u>в</u>., availed on terms like M.S. Changele, M.S. Scam, M.S. Plates etc. holding availment against provisions of Rule 2(a)(A)(iii) & (v) and Rule 2(k) of the Hules. the lower adjuctioning authority has based his findlings from poplanet on-2 to Rule 2(3) or the Rules inserted vice Notification No. (862009 Central Excap(N)). dated 07.07.2009 and also from CBEC Circular ssued vice F. No. 287/13/2010-CX8 dated (iii: 07.2010) to damy Dorivat credit Folding that the goods have been used for laying of the transation and supporting structure. The transadjabicating authority has suspanded Chartered Engineer Certificate dates 28.03 2009 on the ground that it is not ⊲aftgorida. The eald Certificate is reproduced as under :



To Moon Sc Ever & Yay Colloans F OTA ACTOR 8 <u>) epsilosija [</u>

A. Derretes()が開き Mailler Stice (Miller; GU-Pac Pacers) で べ, GLUCT Critical Property (and the use of a state of the st 2 (TH T) MCCONTACT BAYES ( dies 5 traumper)

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Page No. 11 of 25

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P. A.S.

6.1 The period of receipt of goods being 2007-2008 - Explanation -2 to Rule 2(x) of the Rules prior to 07.07 2009, would be applicable, which was as uncer +

"Explanation 2 - Input include goods used in the manufacture of capital goods which are further used in the factory of the manufacture."

8.1.4 Whereas the lower adjudicating authority applied amended Explanation 2, to Rule 2(k) of Central Creck Rules Ince ted on 07.07.2003 which reads as under the set of the

"Explanation 2 – input include goods used in the menufacture of capital goods which are further used in the factory of the manufacture but effect not include cement, angles channels, <u>Centrally Twisted Deform can (CHD) or Themas Mechanically</u> (gested,bar,(TMT) and other items used for conducting <u>of factory</u> shed, building or laying of foundation or maxing of structures for access of capital goods."

[Inserted vice Nollicolity No. 1672079 Caritol Podse;XT) direct (7.02.2338) [Hmpibels & supplied]

6.1.2 If find that dofinition of input as provided in Role 2(k) of Convat Credit Rules was more broad-based and non-restrictive prior to 07.07.2079 [Whereas] specific exclusion clause was added w.o f. 07.37 2009 in the definition of input.

6.2 The fower adjudicating authority made observations at Paral 25 & 27 が the impugned order as under -

> I faither find that the strove said goods whs -2P reserved during the period from 20<u>97 to 2008 and Clervot</u> sredit was lievaled dowing the vertice horr; 2008 to 2508 whereas the certificate was issued on 26,03 2009, Fig. after the utilization of the goods as activitied by more, that certificate deel' states that at the time of hispection it only the said gouds mere utilized, hence, as per the obmunistances it. leeds me to conclude that by the that time the materials i.e., TMT Bers / cherylels / Beaut / MS Plates are, were used and tot identifiable in the year 2058. The Grantened Engineer has sho hal emileked hav ne her sameland he large number of heres purchased by them during the long period of velup of cynt end used in spactto naturol acodo. Thatter find llisi herecen be no specific marks and rumbars on the seld guods. here a the thet on a basis of assumption. the Charlered Engineer cas looved contribute mar such goods might here. been used in homome. I find that rolling use be derived as fo whether such downs have been used in said capital goods on operatives. The Notices has not submitted any photographs. of full meetinery and the desception and also to hypoless of no some sold goods, as such it cannot be location under any areamstances as to whether start form has been used.



 $(\alpha_{ij})_{i \in \mathbb{N}} \approx (\alpha_{ij})_{i \in \mathbb{N}}$ 

in savi copilal goods or ultrawise. I also fina mat the Nictleee this not stibilitied the details as and when the sold terms nam been used for the purpose of manufacture of capital goods and for which vapilal goods. Lience, any midenticit that areal. Of shows said goods as a capital goods is contissible to premitis not lengble and equal

27 Therefore, I do not only on the community issued by the Challered Engineer being issued on assumption and for the researce as stated above, as the Nabore has found to smootentiele their pain that the cald there has each used as parties and controlments of the capital goods. I find that locking to the testing of the terms as defailed above the same were based for the laying / ibundation / support of the explicit goods "

**6.2.1** Whereas at Para 19 of the impligned order, the lower adjustceling authority applied ancended Explanation - 2 to Rule 2(k) of the Rules, which was not relevant for the period prior to 02.07 2009 1-

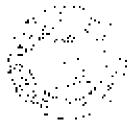
119 Without projective to the above, that we to enternal they are componently, source and reconstances which each a growth is eventue as to which at the analysis and coordinates which each at the analysis and coordinates which are the evaluation of the variable has been stated as above. However, improvided the content as which is write:

Exploration 2 – Vipol invitely goods pased in the memolecture of capital goods which are further ascellen the factory of the manufactore and shell not visioge contains, angles, channels. Centrally Techsley Defices for (CTG) or Theorem Mechanically Treatest cent(TMT) and other forms around for marshipology of factory check, building or largely of roundation or making of structures for curport of capital goods. "

6.3 The Exploration to Rule 2(k) of the Kines which the lower accuricating authority rated upon was inserted with 1.07.07.2009 whereas texclusion plause was not present prior to 07.07.2009. I find that the Servat credit on the disputed items which have been received and used to make parts, components of capital goods prior to 07.07.2009 cannot be denied placing reliance on Explanation 1.2 which existed after 07.07.2009. For this 1 rely upon a neclector of the Honible Matrixs High Court in the case of M/s. Thin: Arcoren 6 legars reported as 2017 (355) ELT 973(Med.), wherein it has been held as under to

\*36. A bare making of the 2009 Notification reveals that it beings about an emonement in Explendion, 2, by specifically excluding from its emotification, by specifically excluding from its emotification contained. The initial evidence contained in the Notification, pours in the direction that it is notifier upon a bare memory of the event. The 2006 Notification in no concertain terms stated that it shall come into force from the dependent of the public element.





R.

<u>the official capptie.</u> Clearly, <u>if, the intention was to clarify on gap</u> if i<u>p</u>irospective off<u>icit, ≹ wattel know been b</u>rgught into force from a cetter <u>anterfor to the deteroif public</u>hon of the Not<u>fice; on</u>.

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35.1 For the sake of convolvence, the relevant part of the Notification is extracted horization

"....". (1) . ∏even user may be belied mot CENVAT Crosif (AnicochicuK, Rola- 2009.

(2). They shall beens me force on the sale of their publication of the Official Gazotte

2. In the DENVAT C with Rules, 2004 (hereinalier referred to as the same rules). In this 2,  $0^{\circ}$  dense (k), in Explanation 2, after the words (factory of the manufacturer, the following shall be inserted, namely:-

"but snall not include comont and cogins, observes, Centrally Teleford Decome box (CFO) or Thermin Machaerically Treatest but (TMT) and other Recordshift for receiver of factory shear publicity or laying of foundation or making of structures for support of cogital goods

Semicontraction for the COURSER of the COURSER AND THE  $\mathcal{M}_{\mathcal{M}}$  and

#### (Transmin Movement)

33. A plain reading of the relevant parts of the Notrication, which have been emphasised by us, would bring to the point which we have sought to articulate horizin above. <u>The tip, on new weither a point and Prentice-Unit</u> <u>thet the notification is not reported ins</u>.

39.4 If, that we the conclusion containty, the submission advanced on bothshipt TAB and DOB' may weight, which is that the Revence, with effect from 7-7-2009, may solight to, in a sense includy the innerst of the judgments of this Court in the decisions referred to above by amending Explanation 2 appended to Rule 2(k). Thus, clearly the amendment in our optiops, can phy <u>sponsity prospectively</u>.

3.5.1 The sold judgment also held that Genvat credit of Structural items used in the tabacanon of parts of capital goods will be available as under the

W. W. Kenner

143 As world the Heilen, from the Akreean Added, in Rejesthan Spinning & Weaving Wike Limited case the Court relied open the user teat or undated in its earlier judgment rendered in : Jawaran Mills Chrisel take Oberly, the Court held that stort plates and MG. Plates <u>the structurals</u> used in the fath eator of the chimney, which were an integral part of the officer remersion set would fail which the ambit and spore of doint for of capital goods. The Court, works on so further hold that such remainment had to be treated as an accessory. As a traffer of fast, in Caraswathi Sinter Wills case, the Court, works on on plifts yow taken in Relation of Spinna and Weaving Mills the flat which the mean many, the capital goods, the term in lease an integral cert of the mean many, the capital goods, the would not in the definition of formed near the loss of the standard pone within the anticid for capital goods.

43.1 To be roled, Horbre Million calD K Jain (as he liten was), was party to both the judgments rendered by the Siturano Court Jo., Rejastran-Samming and Weaving Mills Limited as well as Sersaweithi Stiger Mills-Limited case.

(3.2) Therefore of the clearity, this two judgments reterred to above cancel, be read in the memory sailt a Revenue & socking to read them that is at clearing particles, an our ophysic the rate of the two ludgments is that as lang as it is shown that the <u>component and/or "an as-sory" is an integral</u> (so, of the cantel pools, two on, in turn, tait writin th<u>e source and encourt</u>) of the sourcesion (tables, there is a possible to be a case of the case of the component of the case of the component of the case of the component of the component of the component of the case of the component of the c



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24. In the facte of this case, we have to post the <u>herr MS structures</u>, which support the <u>neght and machinery</u> which are, in <u>turn, used a Be</u> manufacture of sugar and matasses green means and <u>statistic support</u> the <u>neght and machinery</u> and <u>means can all such plant and</u> mathinery. The assessed has clearly compositeled <u>statistic support</u> as <u>well as fournalises</u> which are present, by using significant content are integral <u>part of the capital records (i.e., plant such as the integral part of the capital records (i.e., plant such as the integral part of the capital records (i.e., plant such as the integral of the plant and mash nerve which may have the final product. Therefore, in our participation whether the "issent test" is applied, or the <u>keyLitgt view are than integral</u> and of the capital goods is applied the assesses in these issues is madel cell the benefit of Canvel credit is allow fail within the scope and amount of help (a)(A) and 2(k) of the 2004 Roles.</u>

[Emphasis supplied]

6,4 [] find that the experient has submitted photographs of plant and machinenies where the shucknal inputs under consideration have been deed the experient has very clearly comparated through their detailed write up as, discussed in Para 4.1 and 4.2 and photographs that ebooturel items I ave been used in factionation of parts of Air Clearelliner Unit, which tails under Heading 3421 2690 of Central Excise Tariff which is allowable in the light of definition of the capital goods under Hule 2(a)(A) of the Rates.

G.4.1 Intersistent from the papergraphs and submissions made by the appelland that the disputed inputs have been used in fabrication of parts of **400 Beg Filter**, which also fails under 1 eading 6421 3990 of Central Excise Tariff, which is applicable as per definition of capital goods under Role 2(a)(A) of the Roles.

G.4.2 This sees from the photographs and successions made by the appellant that the disputed liquids have been used in instruction of parts of **Spray Dryer Chamber** which falls under Heading 3421 2100 of Central Exists Tariff, which is applicable as per extinction of capital goods under Rule 2(a)(A) of the Rules.

8.4.3 The appokant has submitted stage wise uses of above machmenies as detailed in Para 4.2 and emphasized that these machmenes, are necessary to party out the propasses to arant factore their finished product "Precipitate Silica".

2.5 If is, thus, seen from the above details that the experiencihas submitted everyondrning supporting evidences slage wire processes as to where disouted inputs have according to accuration of the plant and machinesies to substantials their claim of Cenvet gradit. These detailed submissions establish that the resputed inputs have actually been used to fact cate parts and components of verticus mechines as which have been used to manufacture their final products and hence they are entitled to avail Cenvet credit or mose terms. I rely on Sie following decisions of the Honble CESTAT and High Courts to the coses as under the



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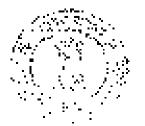
#### We, P. D. Industries PvL Ltd. reported set 2017(347)ELT487(11-04).

Reserve Is in append against the improposal router dame 15-4-2016. persid on the C.E. (appends), Ruban . For long factory distribute are that the verpositions herein is conjugat in the assinguation of sponge tranfailthe white Chapter 72 of the Constant Starty Act, 1965, 198 <u>respondent small</u>t flennar crudit of l'entral linetre duty yold on inputs <u>and enotial words, areal or o</u>r in relation to narryfaeness of final products. <u>within the factory Dynas</u> die period April 3004 in Mayek. 2008 and <u>Mar. 2006 to (</u>Derober: 2008 - the hermondest had taken credits <u>amonistran in Re.</u> 32,82,9634 and Re. CP 3624 respectively on MS angle. <u>chann</u>el, 1014, <u>JIR</u> coll, chapmind planes and that, etc. considering the <u>some or imputs,</u> Taking of Cennat credit was also desired by the Control Excuse Department on the genuind data the disputed home are activity. construit under the definition of ception ponds or topute. The show entry noness issued in this regard existinated in the adjudication order dated 5-2-2039, whereits the Central credits of the above vulnitaned associated were disallowed and endered for recovery along with interest. For ther, equid amount of venetices were imposed on the responders. It appeals the bit Commension expression wide the impagnet order has allowed the appeal of the respondent helding that the treatment of Center credit as the disputed goods to legal and proper, as the said goods are couplembly. to the definition of topol and capital goods coreatized to the Central scheme. Fealtrie aggritured with the topograd order, Romanna is to appeal before this 25 double

 Heard Ster R.S. Wakra M. Departmented Representative appreciate for Revenue and Stri M.F. Singly tell advance appearity for the respondent and verses of the records.

 $d_i$  . Lifted that upon consideration of the issue and the facts involved in this case, the life Communication (Azyreels) has held that the described poor shall be considered as input-caritial production the purpose of analment of Contai andie. The relevant paragraph in the important earlier is enhanced frequently low or North Contraction

"It is a fact on record that appallant a belder of Control Parian Registration is a manufactors: of Spange Irau and Eas availed modif as orders items such as MS Angle, Channé, Joist, BR Coll, Chargered Plays, and Plat. etc. each is surveying items and used in constant and institution of various models and is formula cosmical for heir according arising part without Terr impropriate graphs are usual to the construction instead of Steph Steph Recagnille A. Conveyor: Systems, Finished Stends Storage Tank and in Supporting structures of soft-readingstol Geoster tach. as Kilo, Challet, ABC (Retary Kilo) Cost 5 numl Hopper, U**rather and** So centing Mechhany, ere, which were definitely used for convergence menorized in the activities of the appellant. It is also fact known and yeae <u>year that stoke</u>right de<u>rna well as Angles. Chartrels, plates, each are</u>  $_{2}$  -ro<u>ta in</u>-puted injections is the problem in the second structure in the second structure in the second structure in the second structure is the second structure in the second structure is the second structure in the second structure is help it is very difficult for any machines to an smoothly giving the des real production on result and times diese fi<u>ences are always ifficed with</u> mechinery used to the production of final <u>producty. Once it is established</u> that these means are essential for penducno<u>n, specify running, smaller</u> efficiency and better receiv becaming on essential <u>supplyment to about</u> oad maanhaarv far use of more segurag <u>autivijies hed thus an integral</u> part of pinaess with which the mitgary machines are large god. I do not tind by**y reason to deny the penetit of C**any<u>a, co, here items and less</u> <u>prere a relimpet ment for the goods in opestion, qualitation</u> ingentation, the speeds tip<u>t the</u> me<u>ab create</u>."



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5. The issue, equally digitibly of Converterstit on the asymptotic goods, has observe been writted by this Tribunki in various cases to the case of CNP & CA will a PP AGRE 265, [2013] [293], ELC, SRE (11), Hang (1, 10)] is on the hear botted Stancks, risks and particulation and the product of the machinery must for fabric transport of goods, but of every state to a possible of the transport of machinery and hange powered under the action of explore the machinery field for the case of Station Product Receipted parts for the clipted of the transport of the case of Station Product Receipted parts for the clipted of t

6. The curvited goalds due (a loc establish point of time were not covered under the exclusion clause contained in the definition of input. Since the classifier goalds were as I like exclusion of capital goalds only of the photo the same is were manufacture of functions with the manufacture of functions with the manufacture of the procedent the formation of capital states with the manufacture of the procedent in the formation of capital functions with the manufacture of the procedent in the formation of capital states with the manufacture of the procedent in the formation of capital states with the manufacture of the procedent in the definition of capital states are used for erring to the manufacture of the procedent is manufacture of the manufacture of the states when the manufacture of the procedent is the procedent in the definition of the procedent is the procedent in the definition of the procedent is the procedent in the state of the procedent is the procedent in the procedent in the procedent is the procedent in the procedent is the procedent in the procedent in the procedent is provided by the procedent in the procedent in the procedent is provided by the procedent is provided by the procedent in the procedent is provided by the procedent in the provided by the procedent is provided by the provided by the procedent is provided by the procedent in the provided by the procedent is provided by the pr

 In view of the above, i do not first any inferring in the impugned order passes by 10, then a subset (Appendix). Thus, the peptid filled by Revenue to comissee."

[Imphasis supplied]

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### Ms. Saguna Metals F. The moonled as 2016 (335) ELT 116(Tri Flyd).

4 I nave heard the row schedule and percent the eppear econs. The main jubant he desproy the weak as even decussed in the implication where it that the experimental felled to turnsh sufficient thermative evidence that the experimental felled to turnsh sufficient thermative evidence that the experimental felled to turnsh sufficient thermative evidence that the experimental felled to turnsh sufficient thermative evidence that the experimental felled to turnsh sufficient thermative evidence that the experimental felled to turnsh sufficient thermative evidence that the experiment feller curve the summarises has not been considered of all the evident tests given details regardled the account one use with the implement least time attents regardled the account one use with the implement least triating the test of particulation of these terms and their revealed with alloy with the test of particulation of these terms and their revealed with alloy with the test of particulation of these terms and their revealed with alloy with the test of particulation of these terms and the test of the felle there the subscence does not here a case that such particulated networks where the where the experiment of the particulation scene, it and allowing the experiment in any measure to be the Chartereo test is sufficient of the least the test in the particulation were chose for the particulation of central contract of the test of test of the test of the test of test of the test of the test of test of test of the test of test of the test of test of test of the test of t

5 The leave whether <u>WC turns upped</u> for rebraction of applied <u>review unumental performances</u> are shalled for order in <u>noknown</u>, rev integral, the accusions check by the modellast stated shalls have belogeneatly new that small in admissible. However, the meaned search acting similar, opplying the wills while there is fight the stationarce of ment is depictively.

6 the PARAMENT dependence is set askie, and the access is a strand with conversion potents, if any '

#### fiii) — Godavari Power & Ispal Treported ps. 2016 (2000) ELT/200()\*-200)

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Fage Hall ( Art 55

\$ Contraction

17. geon nature (1927) we of pa<u>rk markins - Credit available - Jules 3(4) and</u> 29) of Centot Credit R<u>oles, 3(6)</u> (para 5)

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5. Specific reference has been made by 20 Remote regarding remove reference that the tallplay with that of originally economical ky the empired adjudicating autocrite. Without going bate the converse of such claim and the implication of plan reportion, it is as admitted plan and the usage of versions theme even in different types of fabrication and manufacture has not been questioned with any ansains of complex ation by the Brownie to controver the submittetion made by the respondenby the Brownie to controver the submittetion made by the respondenby the Brownie to controver the submittetion made by the respondenby the Brownie to controver the submittetion made by the temperature presends of append, observation has been made regarding into the twoing and append, observation has been made regarding into the twopresends of append, observation has been made regarding to the twodent as in the network of variable of the submittetion of structure to append append to be a state of variable and the submittetion is a made appending the state of variable and the particular is a advected to append append to be a fact that a particular theory structure coupling and a different to been ingines or lower, courties ing the nature and size of the methods.

 $\mathfrak{L}$  . Regarding the implement order service train particle in simulation of Rule 5 of the Append Rules 1 joint that the generate of append is rather ലൂട്ടുടെ, എന്നാമ കടർമായിലും കർവാം ഒരു ഒര് ഒര്ത്ത്..പെ ലെക്കാരം കൊണ്ട will be harred under the selfs there is existin releasing version the demotinguicitant as presented before the activitial algebrary which were also produced before the Annalian Authority were merchaned as the reason for allogues the said relation of Rule 5. The Commissioner (Aspecie) is well writen his right to seek clarification to explain any resinance exhaulted before him, before approximing the and endertee jur a finding. Seeking additional information on elemptonian on weakness on record in facilitate the proper finding causes by openently. berryd ôp die aboremenioned rule. There is also no allectaten that the new set of evolutions have been submitted by the near-orderit which early mus estimates after the said case wer decoded by the empirical authority. I find on sub-divided present in the appeal in the Receiver when there is no challenge on mode A verseal of the managed order to extern the mere recently that the flame d recipe of extreme three been been determined by the Commissions: Appendict and he care graded by mariput, that held experinstacting the application of "aver sea" on hild down by the Resolute мульты с тех 25 Перектон Храннінд инд Ферекінд VIIII, 124 – 2010. (255) ALLI, 481 (S.) , GRA IN JAHARAN 4400 - 2790 (152) (C.). ( (S.C.). The eligibility of the create has been decided by the inver-តាត់លាក្រ ហារយ៉ា លោវវភ

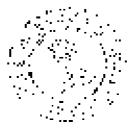
s.

 Considering the ensure discussion and analysis, 1 find no meets in the present append by the Revenue. Accordingly, the same is discussed.

## [Criphas's supplied]

6.9 The order of the Hor'Ne CESTAT in Mis (S6% labet end Power Ltd. reported as 2015 (326) ELT 620 (Tibel) distinguishes decision of the Larger Serieb of CESTAT in the case of Mis Vancane Globe. The returned to in the inclugined order. The relevant particle of the order is reproduced as under (-

17 The constantion of the fit AR is that as three culls are fixed to the content of FID to only use heigh run over Dere. The offers, these are the constant which are embedded in constant. In Sec. 2: Classification: the constant of the



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CGR, MoRunal – 2013 (194), ELET, 124 (194-Consumer, to say that the support will not externationly became the post of trans

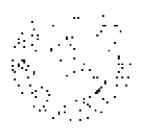
4. Matter is solver up for constitutation and i have persons the mpagned order where the M. Commissioner (4), has assumined the boar on the basis of constitutes termed by the University of Rephase solution that there male wave made for EOT crowes and they are ensential componences of <u>EOF complex. The</u> Id Commissioner has observed as solve 3 4 . In the Appellant 5 care filey issue manufactured parts (xC4 Crassi & Coolms Bed by trapingined structure of thems. I also this one, bit bayingined structural tions i.e. Area are not supporting structures of Plan de histodunar, or for laying foundation care bened the findings of the adjudicating authority that then the new goods being enclosed to the eerth are to she rature of hamorable posts cust are not good or excitable goods in terms of Chilar Circular No. 58(3)2000-CX, dates 15i 2002 të nën grapër - 19 oli në Convat ershti detalis i fizd that, thev have a which Cannot evenly on account of structural steel (term used for useusfections of components of 1300 Grane and Relling Bed for Rolling 3.0.9 Unit and accordingly, they are extined for Convertment to 28 15 29,3217 crunied on structural step? tions i.e. Rule. Thus, deryage of Central credit on those tions which are used for manificance of parts. and comparents of their final product is not paugited being the add finantalls within the purvien of Capital genets to defined matter Rule 3(a) of Comput Cooldi Balay, 2001 and the Japan good for manifesture of the said done not linear in trans of Exploration 7 is Note 2(k, g) channel Same 7.04  $(1, \infty, 0)$ 

5.5(i) In support of our finaings, 1 have gove though the norm of Madria Corrects Lid, 9, CAB reported in 2019 (376) KCB (087–081) in which the Houthly Supremy Correct white diamosting the opport filled by the Appellants held then, to order to avail Modhath Jersey teach, to conserv has to natisfy the Argueolog automatics that the Capital Chath in the Jerse of components, optime and discoveries had them wither chains in the Jerse optimes of manufactures of the field and should be one berget core the protects of manufactures of the field and specified them between of copital protects of manufactures of the field goods, it are berget core the Appellants with its function and thus such currital goods manufactures of copital have been used in their factors, the account of such curdences and in the last form used in their factors, the account of such curries and in the last form that Contat credit world be admissible on the language diverest factors. It copital goods discussed supra. Each accordingly, and that Contat credit world be admissible on the language diverse of the prove of the supration of the supration of the supration. I reach at a conclusion that Contat credit world be admissible on the language diverse of the discussion of the supration of the supration of the supration conclusion that Contat credit world be admissible accordingly.

5.5m) Further 5 get support from Horn'ble Fugli Canad of Odostiograds In the case of Emon of India v. ACC (nd. respected in 2011 (207) ETT. 55 (Etheringgeric hydrology, Constitutional - Capital grants'- Condition <u>were prove</u>, <u>HRER of one ARP plane, angles and</u> classings - allocate coeffic <u>or structures, HRER of one ARP plane, angles and</u> classings - allocate coeffic <u>grantering and</u> - Capital address for contracting firthing fags, capital and <u>devised in kine, for manipative of the contracting firthing fags, capital and barding in kine, for manipative of the contracting firthing fags, capital and <u>devised in kine, for manipative of the contracting firthing and contraction</u> <u>have</u> and *for manipative of the contracting firthing and contraction* associated by a Robe steel of Compute Capital Robert 2000.</u>

5.2 In the instant case revenue has also with the being the contents on record to show they the Accellant had need much haven for these with with a first show they the Accellant had need much haven for these with a first show they be structure of haven's to be appearing of structure for the other has a bit appearing of structure for the other has a bit appearing the show any time the other has a bit appearing the show a section the other has a bit appearing the show a section of the other has a bit appearing the show a section the other has a bit appearing the section of the other has a bit appearing the section of the other has a bit appearing the section of the other has a bit appearing the section of the sectio

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Сконц<u>тен Блайрын и</u>на Канстие <u>кар бийна </u>а. усобыс<u>, опу кызд</u>асы 68.56<u>879.98 (ÅR71</u>)

 In figure cure and answer, I do not find only information with the improposal. ander. Same is valued Append filed by the Recenter is distanced."

[Etholasis supplied]

in view of the above decisions and in view of CBEC Circular No. 97 257/11/2010-CXB daved 05.07.2010 the facts of each case will determine availability of Cenvet credit on inputs like MS Angles, Channels, HR Plates atostructural items. If likely are used for tablication of parts, components and accessories of capital goods, which are further used in the manufacture of time. aradusts, taen Cenval credit on those terms would be evaluable even effer smendment in rule w.e.(, 07.07.2009,

The eligibility of Central conduits also required to be conductive per-7 verification date by the Chartesed Engineer. The scanned copy of Certificate, dated 28.03.2006 of Chartered Engrader is reproduced as Under t-

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Fage No. 1974-19

A CONTRACTORY DESIGNATION

7.1 The Chartered Engineeric Certificate detect 28.03.2009, very calegoridely states that 10 % of inputs have been used in concrete and brick work and only 87 % of material/inputs had been used in machinery/plant.

7.2 The lower adjudicating authority has brushed aside the said Certificate of Chanered Engineer stelling that :-

(i) the certificate has agen issued on request of the appellancy

fil) ce tillcate nowhere mentioned that what type of capital goods warm manufactured and installed in the factory and how much grantity of each inputs hes soon infilized for specific capital goods:

 (ii) that certificate does not constate which raw material was issued for manufacture at which capital goods;

(v) that rectiplion on evailing Convet one times come into officer vide. Notification No. (3722008-Control Excise(NT) dated 07-07.2009 whereas certificate was issued on 25.03.2009 (and

(v) Chaneree Engineer Cenfloxe is misleading.

7.3 If not that the lower adjusticating authority has discarded the Certificate of Charlened Engineer (i) & very seetal manner even though the Connicate is stationate and has quantified that about 12 % of disputed inpute have been toed in Civil work and only 67 % in plant and machinery. In this regard, Liety upon an order of the Horible CESTA? in the case of M/e Mangal Spongo & Stool P. Ltd. reported as 2015 (328) E.L.T.668 (Trill Del.) wherein it her held as update.

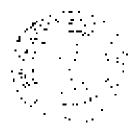
\*5. It is no gouth some of the some have been used by file. gl, bebuedore orcharts, gainoader of supporting structure embedded /g earth for which the Chartered Engineer who is an especial in the <u>Bein this almostic process</u> by his report that avoid the <u>these seed the</u> ananity at 49.85 MT of these items for supplying social and and on the sale quantity aqueliant has not visitlast Cenvar eredit. The appellant is able to show by <u>way of Obartered</u> Engineer Chartered that out of the total quantity 155 MT ware used by the spaceful for labitration of ceptar access. These observations of the Chartered Phavianal which have been refeat by the <u>augustant have been recorded by the r</u>utrovilles below will<u>yout way terryble exidence. Morely</u> saying that all the <u>iterity</u> were used for simplifying structure is rist achievable guidence. <u>Therefore, as the appendict inside need and manage at seven appendit</u> <u>hie items is quashan far fabrication of cayilel double as classical</u> <u>by this Tripanal in the earlier rugged of Whencer, i have no</u> there terred much an bailling a line way a left with or new president po fivis quantity. For<u>titie rememora quantity it ravionu</u>o fools that zppeliant has <u>laken ne predr than may </u>milate and/er proceeding scalar the equaliant, but to the quantity and 150 <u>MT accelent is enabled to take Cerival credit.</u>

6. Multimeze terms i d'attant of the actual by solling accientee impliquemente.

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Page No. 2011-22

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7.3.1 <sup>14</sup> aleo rely upon a judgment of Hon'ble Bombay High Court in the case of Air Carrying Crop (I) Pvi. Ltd. reported as 12009 (248)ELT175(Burn) wherein II has been held that if certificate of a Chartered Engineers was to be distorizized, revenue sught to recoming statement and/or call him for cross examination.

19 ...., ... The contributes of the Channeled engineer organitor the reprint cented out was produced before the Commissioner. The meteries has recent structured that the conf of the Annece helt developed a large half resulting into a maps hear loss. [Includ] statements of the threaters of (<u>he</u> resequent no. I and some alter persons were recorded, the statement of the Charlend orgineer who had certified the regard who also not recorded. If his certificate was in the distributed life Develope out? Not recorded. If his certificate was in the distributed life Develope out? Not recorded. If his certificate was in the distributed life Develope out? There end could to have recorded me statement endlor called non her conservation[10].

(Emphasis supplied)

7.4 In light of the above legal position and explanation of the appellant detailing machineries and plant where the disputed inputs have been used by the appellant duly appointed by the photographs and detailed technical While up 1 field that put: and excepting denial of Convet credit on the Inputs rised in manafecture of plant and a schineries, without going interactual usage, is not correct legal and proper.

7.5 Since 13.5; of the disputed moults have not been used in fabrication of the machinenes, har of the considered way that 15 % of disputed Convet or of thes to be held as inequilible and accordingly. I flow that 87 % of input Cenvel credit (Rs. 19,66,2150) is admissible, whereas 13 % (Rs. 202,3234) is not admissible, which must be paid by the appeliant formwith.

8. Regarding interest updar Hule 14 of Cenvel Gradit Rules read with Section 11AA of the Act. I hold that interest on Rs. 2,92,2234 file.15 % of Cenval credit held not etgible) is required to be paid by the appellant interdiately.

9. Regerding the epoellant contantion on the ground of limitation that they were regularly flipp monthly returns and thorefore, the demand is sine barred. I find that morely by fling monthly returns, the taxts are not declared to the Department. The eppellant was required to inform full details tes they have submitted facts during appeal proceedings) when department asked there is a submitted facts during appeal proceedings) when department asked there is a submitted facts during appeal proceedings and over at adjudicer on stage. I am not include to accept the plea of the appellant that the Centand in the Show Deutse Notice to the there is a large the plea of the appellant that the Centand in the Show.



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10. As regards consity under Rule 15(2) of Cervet Credit Rules lead with Section 11AC of the Act, 1 and that the position of law regarding availment of Cerveal credition the inputs used in the manufacture of capital goods at tecrory promises are open to seturity and there are cerviteling decisions of the Herrible CESTAT and High Court competing Cerenti Breach of Excise and Custems (CBHC) to issue clarifications in the matter. If therefore, find that imposition of penalty order Rule 15(2) of the Rules and Section 11/VC of the Act is not warranted in this case. It mercian set as de penalty imposed on the appellant under Rule 15(2) of the Rules need with Section 11AC of the Act.

•1. अपीलकतो द्वारा दुई की गई अपील का निपरांग उपगेक्त तरीके में किया जाता है।

The experience by the appallant is disposed off in above forms.

C. A. Com

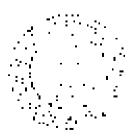
Provide and (जगार रात म) आश्विकत (आमील्स)।

<u>By R.P.A.D.</u> To, M/s. Madhe Silica Pvt. Ltd., DU-III, Plot No. 73/74, GIDC Chitra, : Bhavnagar – 364 060.

Copy for information and necessary action to >-

- The Objet Complement (CCS) & Central Excise: Annodated Zose, Abmodated for his kind information.
- he Commissioner, CGST & Central Excise Bhavnagar Commissionerate Bhavnagar
- The Assistant Commissioner, CGST & Central Excise, Bhavnagar Division, Phavnagar.
- <a. Guard File.

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