

ंक्ष पुरुष्ट (जपीनव) का कार्याव या पेक्कीय गरन् एवं सेवा जर और इत्याद शुक्ता : OXO THE COMMISSIONER (APPEALS), CENTRAL CYL & UNUSU-

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प्रजनगढ २०६५)च्या - १४५८ १० १

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Б<u>НУ</u>-БХСUS 000-<u>АЭЧ-185-ГО-187-2018-19</u>

HTM R. Raisey

24,07,2018

कार्य कर है की अर्थकार Teorem (1 single)

26.07.2018

Date of Guiden

कुमार होतीय अभिकृत्य (१५५ हुन्) र सम्बंद हुन्य ५ हिन्न १

Hassas av Shif Kumar Baminsh. Commitsioner (Angeels). Rejiot

भाग भिन्ना राज्या राज्या राज्याक राज्याक राज्याक केलीन असरा मुल्ली में एक एकटीय राज्याक कर राज्याम कर साम राज्य क्षा अर्थन व स्थान ।

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mail Taggreta (1905) by Dodga (Col. Phy. Hull. Seed Lieum ed. Per No. 303). AIDC.

Nhà Hìmansh bian Nanghi (1921), 32, Villa Connilla, Fourth Figur Near Ràigheil Fail. Жа Данасіі, Пинтарычжа III.

ි දැන් දැන්වට ම යන එයේ එම සිට නිවාද මත, එම්බිය කොමත වැනි එම විධානය වේ එම කොමඩ්වෙන මී බියා එම මිය වැඩි ව වෙතින මී දැන සහ මැවේ මේ මියෙන් මමුදා (එය නුතාම සිතෙක් නි එයක්කාන පිනිසුමේ සිටුනෙම ම නමුදා මට මට නව වෙත නමු මේ මට වෙතින් නිවාද මෙන දෙම වෙතින වෙතින් මෙමිනු මට මෙමිනිය වෙතින් නමුණා 11

් පිරිදු ද්රිත්ත යට මේ අද කර දිනවේ ඒ ද මත වන මේ දැට කිලෙස තුනට වර්ණ යට කලන ද මත වැනි මත මිලදීම මතු අද සි 1 මාන්දී ඒ වර්ණ කිරීම විදියද දක්වමින් අත මතුමේ මතක පොත් අතුතුමේ සිදුවල ඒ එම පතිකර දක්වා ද වැනි කිලදීම දැට වැනිවේ සිට වැනිවේ සිට එන්න කිලදීම විදියද සිට සිට සිට මතම මේ විද්යදම් පිටට මේ මේ සිට පිරිදු විද වෙනික සිට සිට සිට සිට සිට සිට සිට සිට සිට සම සිට සම සිට සම සිට සුදු සිට පිරිදු සිට සිට සිට සිට සිට සිට සිට සිට

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- होता । र अभिने र प्राप्त में 145 में रूप के आप निर्माण के अधिकृति कर आप 15 को **को के के का**ए पूर्ण के एक किया के प्राप्त की जो पत्र के जाए किये कार के का किये की को है। कि इसमें रोजकान रोश्याप करोड़ के हुएका स्कृतकार के जार दश्याण का का कुछ उन्होंने के किया करकार के का को आप के कि कार किया के पत्र की किया की का काम की का का का किएका के किया कर कर का
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- Children which a strain grain in grain in the sale of the grant the sale bible. According to the sale of all a sale of the grant the sale bible. According to the sale of the
- 344 COMPLIANT COMPLI

- कार्राचीका का average (a.e. की the 1905 के 1955) के 1955 के 1955 के 1955 के 1955 की 1955 के 1955 के 1955 के 19 जा पहले कुछ के मिला को 1955 के 1955 के 1955 के 1955 की 1955 की 1955 की 1955 के 1955 की 1955 के 1955 की 1955 क कि 1955 के 1955 के 1955 के 1955 की 195 को 1955 के 1955 की 1955 . .
- টিনা (৮০০) টিন এলাড চুক্ত হয় গাঁকৰা কৰিবলৈ স্বাহাটীকালে কোনে বিভিন্ন হৈছে এই আন এই আন এইছা আনুষ্ঠানৰ সামানী ক স্টেটাটিক কৰে নাটি কিন্তী কথিব বিভাগত কৈ দিয়ে কৈছে এইছা ছবি এইছা এইছাৰ এইছা এইছা এইছা এইছা কৰা কিন্তু কৰি কোন ইয়াৰ আনুষ্ঠান কৰিবলৈ কৰে এইছা কোনো কোনো কোনো এইছাৰ মাজিক এইছাৰ এইছাৰ এইছাৰ এইছাৰ এইছাৰ কোনো কিন্তু কোনো কোনো ইয়াকীয়ে উল্লেখ্য কিন্তুৰ্ভিন্ত ইয়াকা কোনো
- त्र व क्षणीत क्षणीत के कांग प्रतित पर्यों में किन्दित करात. जिल्हा कर सकतात क्षणाओं के जिल्हा प्रांताओं के करा इसके के बहुत के में कि कार्यों के कि कार्य (AMP) कि शिक्ष के कि कार्य के कार्य के कार्य के कार्य के कि अपने क पर्यों के कि कार्य के कि कार्य के किया कि अपने करात in a local of Regularizated Nazaria www.comago.ad

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:: CRDER IN APPEAL ::

The below mentioned appears have note filled by the Appellants (instruction) to a "Appellant No.1 on Appellant No.3") as possibled in the Table against Order to Original No. 3375xdise/Demand/2017-13 dated 24-07/2017 (Nevelocities reference to its other indegred order) passer by the Assistant Commissioner of Central Excise. Surendianasy: Christian (Assistant terfered to as The Inventor passer)

51. No.		Appellant No.	Name of the Appellant (
1	V2744876VR/2017	Appellant No.1	M/s. Shri Hari Steet Indosofes. PloT; Bio. 70/71, G.I.D.C., Vartoj, Biograpor.
2	V274477 IVH790]7	Appellant No.2	Sar: Maggibbal utviajohar Derega Prittner er W/s Shet Harl Steel Industries, Post No. 70/71, G.J.B.C., <u>Varie</u> i, Bijakhagar.
; 	VX) 4397387472037	Augedams Rodi	Sari Cameroni, vendlet Pagant, 36. Penar Complex, Parth Evon, Mear Sankart Hat, Waghawadi Rose. Staniagay.

- The brief facts of the case are that Show Cause Notice Fulfa. 7715 (AUTOCAT/HO)/2015- 6 dated 20.09.2017, was rather to the Appellant No. 1 to Appellant No. 1 for closurables of M.S. Ingots discontinely to variety designers alter mass uniden.
 - (a) Aphiculant No.3 had clandestinesy maint educate and cleared their minished expisable galess, trainely. CTD/WS Round hars lightracting Gentral Estise duty of Rs. 44.10.4417 for various customers without resulting the Invenes one Without payment of Control Escape (4.15).
 - (b) Appellant No. 2 Partner of Appellant No. 1. concerner temses in setting socially, knowing and removing of dielexpicable goods which he leave non-lad reason to believe that the same when timble to confiscation, which has made both dates to penalty, under Rule 20 of the Central Postso Britis, 2002 (have inertee referme to as if the Rules).
 - (c) Appellant No. 3, brover concerned himself in selling the exhibition goods on commission basis in clanicestine manner, which he know and had recond to helfow that the years were liable to confiscation and hence he was tiable to penalty under Rule 2s of the Rules.
- 2.1. The above SCIs was adjusticated by the lower adjudicating authority yield the injugated order continuing decisand of Certural Excise duty of Rs. 44,13,4317-aguinst Appellant (45.1) under section (15.4)(10) of the Central Locase Appellant (55.4) as "the Act") along with interest on the continued

(Potated Linder: 1AA of the Act: imposed penalty of Rs. 44,15,451) inpotentiant Notice det Section 11 AC(1) of the Act and imposed penalty of Rs. 44.13,4317 upon Appellant No. 2 and in posed penalty of Rs. 12,80,0007 upon Appellant No. 3 and the Rules.

Izeing aggrieved with the implighed areas, wape land No. 1 & Apockant.
 2 have preferred present appeals, inter also, on the following grounds: -

Appellant No. 1 :-

- $P_{\rm s}$ the implighed order has been passed on the basis of the shirt norty. evidence only and the elone not sustainable in law;
- (ii) The lower abjudicating authority has breed in confirming demand without allowing cross-examination of the withest maximum as the statements are pased upon the documents recovered not title premises of the title party;
- (in) The lower adjudicating authority has ented in confirming demand without appreciating the fact diat broker file. Appellant No. 31 had confining the candestane removal of modable gazes on the basis at contracts recovered from its promises; that afficavit of the partner has not been considered:
- (A) Late lower adjudicating authorary has errod in continuing demand for the financial year 2013-14 on the ground that the Appellant is not eligible for exemption under Notification No. 87/2002-CF Societ 01/18.2703 and Photogram, the dumand for the phonocal year 21/13/14 is upbut to be set aside;
- (v). The governational authority has execute executed recovery of others and improving penalty of Rs. 11,10,101/4 or the grounds mentioned and photos.

<u>Aphal</u>last<u>iko. 2,5</u>

Appellar J No. 2 contended that the lower stipudicating authority has creed to imposing note by or 3s. 447 3,4317 on oursion for groupes as a very larger to respect of Appellant No. 1; that the Department has not produced any positive extension prove that Appellant No. 2 had actively lovelyed himself in so called clandestine removal of the exclassic goods and therefore, possibly imposed is part to law that Hopfold Gightal High Court in the case of Ashierator Removing regioned as 20 0(260) ELT51/Guji held that no penalty is impossible on the partner of the form is penalted.

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<u>Anpedant No., 3 ().</u>

Appellant No. 3 stated that the impugned arror is non-speaking and non-respond the much his time, we given adjudicating authority has not dealt with the pleas made by him in his written submission and judgments interior, by the same completely ignored. That the impugned order is issued in wislohier of much pleas adjunction gives as case laws related to have not been discussed by the ideas adjunction granthomy; that we getter they are not table to perally under Othe 26 of the Bules as no was problem only and had not dealt with the group are imposition of perally under Rule 26(1) of the Rules does not arise incomuch as he bring a breach was appropriated to be purchased of #5 Sais; that he being broken had introduced and ger finalized the section of the growt be as in order to attract posal provisions of Rule 26(1) or one Rule 25(1) of the Rules in order to attract posal provisions of Rule 26(1) or one Rules; that he had not conspired or collected with the religion till to facilitate execution of exerce outy by there and no reverses as the celling mill to remove the yoods chancestingly.

That he had only backgred the sale of the goods and had nothing to do: with the rate of the excisable goods illikitly, that he had only mispecced the purchaser to the sollor i.e. roung mill, represented by Shir Arteshhair that ha WWS (1857) AS Mink between buyer and saller of the good: that he was not required to got registered with the Contral Excise authorities and he has not violated any rules or regulations: that even if it is admitted that he had indulyed. 1) Cland(Stine) emoval of goods and whatever written is decorpents are details. of such illight transactions, then also over the condenses from sollers. regarding such sale, that aport of such goods: that this case is not covered order. submited (fig. of Bule 26 as he has not one I with excisable goods in any manner. what spewer and he had only introduced the burd asen that for a penalty on only becomes designed $26(1), \, 1, \, 3$ policie desiglit un torat elither de coquered designation of any exclusive group your the knowledge or be for that the goods are incule to contraction isnort the Act of Roles or line been in and way control of the transporting, reviewing, degositing, keeping, contrading, soling or purchasing ϕ ho_{22} in any odlest measure chait with any excessible goods with such a 0.84e(90.01)twiret; that Appeliant No. 2 had never transmitted controlled cash with any re-rolling milt. That he extrance has norm addiced during the investigation for prove that the mersonic goods bileged cleared by Auge lart No. 5 were received. by the purchaser will out proper involves; that no investigation has been extended to purchasers and; that they relied upon the decision of the Heidble 5ag. 5 cf 17. CANTAC In the case of Chandac Tabacco Co reported as 2011 (270) ELT 87 (Til) to emphasize them contention that charges of chancestine removal are quast combined and requires production at position and tangible evidences to be proved beyong reasonable poofs.

The allegation of significant posttray Appellant No. 1 Is not correct, Indistribute as there is nothing ameged regarding interaction, place and communication of Apprilant No. 3 with Appellant No. 1, that at the time remove, of goods, Appellant so, eta bad no knowledge that the Helling-MithAppetary No. 1 was indulying in classostine clearances, of the exception goods) that arguiting possession of eachs in a goog spoth knowledge of Leibel (nati the goods are l'able to confiscation under Control Excise Action Rules is the quarong that partially can be imposed only in the case of sufficient evidences; that there is no dyidence on recent to say that appellant $(x_0, \beta, \log \theta)$ in χ_{AB} (y_0, y_0) constituted or colluded with April ant No. 1 and increfere, imposition of goals by under Rule 23 of the Rules is not proper and legal: that they relied upon the cases of NAS, Godraf Boyce & Mig. Co. reported at 2002 (148) ELT 161 (T); A. M. Kutkaren reported as $200 \cdot (120)$ RHT (28)(15,0) Auch), and Ram Nath Neighreported as 2002 (151) ELT 451 (Th-Dol) to contend that the ingredients contained in Rule 26 of the Rales for imposition of peralty are not satisfied in Inst chit. $\{ \bigcup_{i=1}^{n} (e^{i\mathbf{k}_i} \cdot e^{i\mathbf{k}_i}) \in \mathbb{R}^{n \times n} : (0, 1)^n \in \mathbb{R}^n \times \mathbb{R}^n : (0, 1)^n \in \mathbb{R}^n \times \mathbb$

- Personal I esting in the matter on behalf of Appellant No. I and appellant 45 (2) was obtained to by 5 mil Paresh Sheth, Advocate, who in reiterated the grounds of appeals and submitted that totals had been consulted at protein's premises; that Show Cause Notice relied upon broken's diany, which is a Third party document and honor, sport or relied upon as wild by Hooffn's SECATION to confirmed by the honfole High Count; that statement gives by Partner had been retracted honore instany one shough content to the investigators courling Divestigation, but action lites to the adjudicating authority during adjudication as really to Show Course Norther that inequest to course examination was not accepted, also request to supply documents was not allowed; that in absonor of no lowing principles of capital justice the case needs to be remained back to the lower adjudicating actnormy.
- Personal Bearing in respect of Appellant No. It was attended to by Shir trackey Vadocorwa, Chartered Accountant two monitoraged the groups of approximation and each written submissions to emphasize that he had only arranged needing between collections objects and what they and was not in control of approximations () that he did not encourage duty evasion.

- A.1.! In this Writter Submassions Appellant No. 3 contended that The No. 3 had narroom numbers non-coalt with the alleged grack; that appellant No. 3 had just acted as middle man between buyer and selled and thus brokered the sale; that removal of goods involved provided ladvenent involving vehicles who other centiles which shared have been investigated; that Appellant No. 3 and not experied possession of the displitted goods; that date laws and judgments adviced by the lower adjudicating authority are not applicable to their case; that he is not involved to any way which would make him tipbue to penalty covtant Ruic 25(1) of the Ruics.
- 4.7 Besolte personal Learing notices sent to the Commissioncrate, no reply it response received and also no one appeared for personal horological tracks it would proceed to decide the appears.

Findingst-

- 5. If I ave carefully gone through the facts of the case, the incorporation and written as well as oral submissions made by the Appellants.
- 5.1 Appellant No. 2 filed sapes, boyond period of \$2 days but within faither period of \$3 days and stated that consulting chartered account at the sisterial time was busy with other logal matters which had scient on account of censural zation of 1 th denomination comency notes, etc. \$1 de appeal has not filed within commonable from all tartter \$6 days prescribed under the Act, I condone the Letay of 27 days a filling appeal.
- t. The index to be decided in these appeals are whether in that and characteristics of the case ($\frac{1}{2\pi} e^{2\pi i t} e^{-t}.$
 - i) confinaation of demand of Cerura. Excise duty 0: Rs. ++, I s.+ str. under Sergion TIA of she Art along with interest under Section 11AA of the Act against Appellant No. 1 is correct or not;
 - i.) Interestion or pensity equal to noty under section 11AC(1) of the Action Appellant No. 1 is correct or dou;
 - (ii) Whether penalty imposed on Appellant No. 2 and Appellance No. 3 000001 Rule 25 of the Rules is correct or not.
- (i) I and that the relations of Control Dicker Brieflager conducted coordinated system operations at various places including at the president of map. 2 of 17.

Appollant No. 3 and mortiminating and their is tike a laries, notebooks, files, those papers letts, were independent. The statements of Appollant No. 7 (partner of Appollant No. 1) and Appollant No. 3 (SEC) Humanshal Naridiat, broken were recorded by confronting them with recovered and served index incomes and the entities inecorded in the independent and chancestine manufactures and dramestine dearances of No. 3. Racedy LMT Bars to brigger against cash transactions without CE invoices and without payment of CE puty as seen from Paya 10 to 21.0 and Para 38 of this imaged entitle. At larty Or and 36 of the imagened order, Appellant No. 2 in detailed manner explained the pages used and the

7. It is a grounds of appeal, it is easied that the lower adjutitating authority while passing the impugued order has reperced the summissions mode by them, whereas it find that the adjudicating outhority has mentioned the defence submissions in detail in the impugued order, and has also also also stands the detailers giving his analogs. Thus, this argument out forth by the appearance is deviced of months.

planezotions recorded in the said private notebooks/bita/bit.

i find that demand of Rs. 44,13,4317- has been conjucted as per $\lambda_{\mathrm{BB}}(s_0) \in \mathbb{R}^n$, $s_0 \in \mathrm{Shifts}$. Square Nathore and Earths: lectors distributed at Appellant No. 2 a./ documentary evidences recovered from the premises of Appealant, which were placed before frim and shown to him. Appellant No. ω rParamen of Appellant Mo. 1) in his statement cased 26,63,2613 seconded timen. Set $\mathsf{dep}(\mathsf{R}_{\mathsf{P}})$ of the A_{P} had gone through Parichnetia brown at the above said. promisos and the statements cendered transporters, proker, etc., Appellant No. given full appoint alty to period facilitieshing community. staroments and duty calculation worksheet before giving cestinions about the the Brianci correctness the epit. The was slown duty calculation Annautorist grenared on the basis of investigation shaving transactions carried out through Appelland Nos. 3, proker of Appellant No.1. I find that the docume dary avidences and statements to the broken, transporters and Appallant Ms. A have: been discussed and defiberated upon in a very elaborate manner in the implyined discripted many translations recorded in the seized orivate records. were rough tallying with the suchitary records (consections of Appellant Soulwhich proves authenticity of transactions and details contained in the midseling. relige upon decuments and relevance of these rangulty heblifty on Apocl and No. . 1.

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 ℓ/ℓ . Before proceedings, it would like to reproduce some relevant and important paragraphs at the Japugeed erger, will also important to decide these Appeals as under >

 $\phi_{2}^{(\hat{\lambda})}$

- (a) Para 14 of the imptigued order The Appellant No. 3 foroker) explaining code used in diary and confirming removal of the Holshad goods without payment of duty and without assumes of anytices :
 - r food brad the above policie assistant Assists, word declarated by film dennyk i iki emikke statement, semeraed yéresyn ke degasar afott ne is prober af som & Start Sare. Augus, Plats of a Helician humo ship push of a since rash 17 pilate and evas අත ක්රේකු වෙස (mang distancess, <u>වස උපත්තුලේ එක ඉදුලේ</u>ද හෝ ද<u>ෙවින්ද් වුද් අලු වෙ</u>නුදෙනුනු m_2m_1 for the manufacturers and when n_2m_1 and n_3m_2 with $1/n_1$ and n_3m_2 and $1/n_2$ and <u>know known a rated 2.2 (CA)</u>(C2.2. He further deposod that ideal bare on other goods rigg <u> 1965) / Potti / Poutsi, presten stand tastad in medi te ime a dom a in orie</u> $\underline{\psi}$ echiy aspetahad na his austsynara in $\underline{\psi}_{0}$ soma $\underline{\psi}_{0}$ ich $\underline{\psi}_{0}$ ganssyngebis from a n differ and h_0 a velocity way g_0 and g_1 backed as one intermediate datas. We configure that the details of the goods <u>participant from a resolution will be also not consiste</u> and a \underline{wern} writing in the departments instead books) mentioned at Sr. Ma. 111 K 24 or the $Access 2000 \pm 0.02 \pm 0.000 \pm$ pinappenes , results and left Sin No. 2, 2, 73 which is automorphise in depths, Sin Sin Sin Sin<u>ලමා යන මන්ති ක්රම පහස විභා අද පන්තු අද එද අලවුම් පන්ද පනුදු කරල්ම</u> වර්තුම<u>්වල ග</u>ොප්තුවි. συγανικό 1975 **πο**ρες το τέλε<u>νου χθώς μέδι</u>. Με βιαθέντι αφοίνετέ των αν τι είναι το 1991 si Memeri, diden 20.3.2012, ha kad mentreken tita namas of te railtig milla in shart. and the weathern, first come, and well tage in the documents collect professions beginn **១០៤៩ 22.05.2022**. មិន ទៅតែ និង សុទ្ធដែល សមាននេះ ស្នើ សែខ សេសសិល្បៈ មើន នេះ មានិយាយ មានិសាស artistal above while well agreed this by versions and a write public care of the re-region. mais one the name of its accidences on the present of Which are said, his purchasing (N) ([a,b],[b]) applicates f the reflected $\{b,g\}_{0}^{2}\{g\}_{0}^{2}$ arrange of the rescription of b and tire name of the concerned planters with whom he used to de-til for numerace of goods. "

(b) PATA 15 of the impogned order explaining details noted down in the private records seized from the Appellant No. 3 : $-i\delta_{f^{*}} > i$

125. Ha ogsifica si<u>ammingi (Acce</u>s 7<u>9, 2001) og har N</u>ederi<u>. M. i 2 ydjevesi</u> oshbit/rade. nmne=0 and max=mne are the decompate second under nnne=nnne=mne12.55.2917. A reference 60% Stern And Overlindeshies, Marryl Station on 805.007 of the postuments seried under the parchasma dated $22.65.2012\,\%$ as exclaimed by %-Assistant May 2 forms with in this structure of dutting 02.0 1.79 (8 by inhalts and a street). From the transactions of purchase of goods from a reliable and, one to be conserved. national raignable for the Salling and east programme along to statisty with one were excellent asserve that the disciplents as, 12 and 14 gre the prior $d_{\mu\nu}$ peaks make the form U_{μ} $a_0 \dot{a} \approx m_1/2$ for exception, the foreign of position provides of the such as derivative. Gescription of αροσο, name ση σείδει από δυγες νορισ<u>ε του τρόμουσων κόυ το Ελλί</u>λο. $g_{BB} g_{BB} Q_{BB} = e_{BB} f_{BB} e_{BB} h_{BB} h_{BB} h_{BB} h_{BB} h_{BB} + h_{BB} h_{BB} h_{BB} h_{BB} h_{BB} h_{BB} h_{BB}$ the same of assets from B^{0} the $\mu n_{CC} \sim 0.00$, which is including the Matters co. 1.1 on example, second-length of payer M_{CC} 20 of decement no. 23 has been minuted in long, which is of the Show Cooks Notice. for the 20th 24.97.7512 participling to the Astronomic $M = \frac{24000 Mapp, h + 52400 MeV}{2} MeV$ must the Metheer (i.s., χ high prophysical primes that t equation by to its, $1.22\,15\%$, f_{302} <u>(Ae touláge no 155, 21,97,2967</u> °

[I.mpharas supplied]

(Jedius surpied)



- (c) Para Ro. 26.1 and 26.2 : Appellant No. 2 and Appellant No. 3, broken of the Appellant No. 3 accepting clar-destine removal by Appellant No. 1 (
 - "20.2" If find that the anti-exasion branch also gardered has been then not statistically a long that the statistical property of expending the statistical property of the following the suggestion of the statistical property of the following the statistical property of the statisti
 - 26.2 And Regional Resignation Doubla, in the statement des 20.02.2023 deposed that he had east the little and read that the displace mode. Increase the third statement is hoped. It find that had east a series of and memorable in the artists provided of anti-memorable in terms in the confusion that the parties of the fine particular as the same and the particular memorable in the said entered had been increased by their artists of any particular and the first confusion of the said entered by the fine was an extent that they have a confusion that the quality and the said the quality and any and particular the said they have a confusion particular the date, in case."

βέρισημες συγωλισόν

- (d) Para No. 27 and 27.1 of the impagned order (- Computation of duty calculation sheet and its esceptance c-
 - 1.27. If find more the above submariant time acon more under Annexate 6 for the diandesiane removal mode by the brokes for 5 cm the holds of the enforcements the 12 & 13 of the Annexate as the Panesialand dated 22.09.3022 by the effect organize. The templace has 2 maintain address of 1.7015 has confirm in that of the confirm of the confirm of the templace and the confirm of the safety had been consoling the entire in respect of which safe but had been consoling to the factors of the factors for the factors No. 2, discussive 2 has been prepared in effect the register approach the exemption band of the 1.50 four darking the appropriate first 2013 and after most they should have to discussive their pully brokery. Accordingly, the articles for the 6.8 250 km 3 has been an intention in Annexam 8. Accordingly, the Asticle for 1 has exempted as exemption length annual of a 1.8 250 km.

[Emphasis aspatied).

- (e) Para No. 38, of the impugned order (+ Repeated offences committed by the Appellant No. 1 and Appellant No. 2 :-
 - 1999. I families accesses that he area, the Markon 1901 is Real Applied in charford removes of 2500,026 Mrs. of Steel Bard during the period only, while to Denember.

 Page 10 of 17



TAND and had evaped Charact Funks pally to the true of Ro. 47,45,560% <u>for Martiplant Destroy</u> in the shapes on about 26.00 2005, also admitted to <u>having consists into the house personal according to the consistent of an interpretation of the consistent of the state of the consistent of the state of the property of the property of the state of the property of the</u>

Emphasis submitted

- A3 I also find that an hours controlled with the isotiminating documents solved during the searches, Appellant No. 3, as well as Appellant No. 2 (parties of Appellant No. 1) in their respective statements recorded by the Control Poorse Officers during investigation have calequirically admisted that Appellant No. 1 had 3 cored goods without CE investors and voltaget payment of Central Excise duty as per the 30,000 in duty calculation workshort, interesting manner by the Appellant No. 1.
- 7.4 If further find that these are substantial evidences duty correborated which have not been retracted at any stage and therefore as per the settled level position shouldby of the same calmpt be undertraced by two arguments only. Take all hosticity of positions sold by two arguments of Aupellant No. Tail at higher three been duty correborated and correlated and tailled with records sold intern Appellant No. 1 percent countriying Central excitation of typicable to be paid by Appellant No. 1, appellant No. 2 in his statement dated 26.90.000 s. as referred to at Para 2cut and 26.0 of the impulsion order has clearly accepted Amexicos community duty calculations. While companies duty calculation, many entities were excluded from be paid.

 Appellant No. 1 and such or firest were excluded from be paid. $\frac{1}{2\pi N^2} N^{-1/2}$
- And Appellants No. 1 has argued that common of outly connect to constrmed and house of cornes and reports recovered from the third party like proken. Some thin anchoms, despirit Appellant No. 3 (and honce, demand made on the nasis of third party documents is not susceptiable. In this research, I find that the diaries maintained thy the tracker recorded floor, as each as illight ownsections of Appellant No. 1. I have find that many transactions recorded in private records tallied with involving white act tally issued by Appellant No. 1. This, muthibilities of diames/independent and other provate records recovered from the broken during search is eventy established, also made as broken and Appellant No. 2 based annotated to have death with the quotes belonging to Appellant No. 2 based

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Central Femal invotoes and also sold such goods without its Invalors. If also line unati demand has been computed on the basis of duty computation Acrosmy is prepared on the pages of anythin through recovered from the Staker and Appellant No. 1. I also find the Lat. boks envolved in the case, t.o. highertranscorpers. Appellant No. 1. appellant No. 2, etc. have correborated agreement gathered during searches and therefore, demand daying Leisaid to Leibased. upon third party evidences only. The case in fact, is not based only on third. cally documents but duly correspond by first of other evidences a.so. , find that multiplicity of party would uself negate the consept of the third party. In the instant case, the evidences of claides are removal have been gathered by the investigating officers successfully from many places and Dengtone, it cannot be at led tainst party evidences but corrobinative and supporting descences. against Appellant No. 1. Hostdos, anterecents of Appellant No. 1 and Appellant No. 2 are not without blombh, independ as at Papa (8 of the impos) red order in has been found by the lower adjudicating authority. In furnors absence that in post, the Notices No. 1 1905 involved in clandicting removal of 1500,016 Mts or Steel bors during the presion they will be December, 2009 and was evaded CHANGE Entire date to the time of St. 42.45.0091. Shift Marghney Swigthig: Desiryot, for tits anothernoun denset 24 05 2007, letter conditied to recover parallel. involve and to have removed excitable goods without payment of Central Exciteonly and without issuing therices. In this way, it can be escentained that the Notices No. 1 is a receased offendor......".

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***** 15 * 1 Further, Appellant No. 2 (Portage of Appallant No. 1) statement cated 26.00.0004, recorded curing investigation, on being configured with with poor sentance and erail condenses along with outputs and to the λ_{0} regular, sumulted that they eleated excisely a goods without payment of duty and no CD If 9650es, Googed for each Granizactions. This statement dated 96.04.2014 of Appellant No. 7 has mally not been really-based and also not scomuled in time. during invostige four as four d by the lower adjudicating a intentity at Para 26 % %the impugned order, bence, the statement mass $g(\mathcal{C})$ dept expendiary value, which cannot no feel-used only by arguments or belated, bland and vaguraffidavit. I find that the statement was recorded on 26.03.2012 , ${\tt Appelant}$ ${\tt Mat}$ ${\tt C}$ nationzed artifety tragains, the said statement on 22.07.7004 and submitted the said affilias I during the normal of personal lives $lpha_{
m c}$ or 06.03,2017. Belsa Anal anoth the Appealant Mo. 2 had being aloudy sought for cross-examination of Matth is personal without assating purpose and intent for some assaultingtion and Therefore, it has no logal argumenton as held by the lower adductating accounty at Part 75.7 of the Impligned cider as under th

"20.7"—The profession requested for trees-examination of the co-notice and running tersors. I find his fire Notices his law given may suggiful from the rendered his series for his forest open open to be examination and I find that the series mental given by co-notices and socious person to see not less, represent for proceedings which may mediately to the series and other corsers to be present for proceedings which may mediately the themselves."

Combined offset of all contrete and complorative evidences evaluable on topolds reflect diat CE buty evasion has indeed taken place and Appellant No. 1 has included to It. 1, therefore, and that all trace are required to the considered as vival and name evidences and are sufficient to prove the case operate the appellants. Taken required to the considered as vival and name evidences and are sufficient to prove the case operate the appellants. Taken required the darkton of the Huarble CESTAT in the case of Cm. Profesor Against Reported as 2017 (\$100 th 100 (101 to)) wherein it has been held as under the

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 $^{\prime\prime}$ 5. Figure that to from the grownescopy charge interioral set of grown way. \hat{m} and \hat{m} \hat{m} . The \hat{m} is \hat{m} in \hat{m} \hat{m} is a substance of a constant \hat{m} is a graph \hat{m} \hat{m} ทีนี้รับ รักษณะเกลารับน้ำ เพราะโดย เพราะได้สารกับการหมายเกียวและ แล้ว เกษน์แล้ว (การคราก) แล้ว appearing was sought to be not subsect of femously, the type 12 has a sile has all in the $vales value is <math>i_{i,0} \sim collected$ if the 2u $x_{i,j}$ than $i_{i,j}$ and $i_{i,j} \sim c_{i,j}$ are specification by $\underline{\theta}_{CC}$ consequences of the graphics x and the reaction was of the end. uncontrated said state that he has been enaughted to his appearable from nonlineal by the apparence and one days their politikes also was disclosured during the where ϕ' constructed the ϕ . The $\phi\phi$ which is given supposed on the constanting ϕ' 512 for their contributation by war of details of the county content continues. In the problem case. The unlikeness with fact from the suppress 5 for its case problem and common <u>the shippings. Di</u>t the continuous countries in the c<u>omplete systems begin proprie</u>ce <u>and</u> and artificial for the cover form of their manuals by the person was more man <u>Aprile of</u> the eightist's rather Wilson and continue was brought to place an partner. of the specifical entire, he sustymment warmed communication of presence of of Madic Bores, Horsener, the <u>out had some the p</u>igners to a hour such provinces, but is 2016<u>. La pued grandlon</u> la la mempe that the appellant in a joign a plan that the <u> Admiritaries in a mai extensioniment the significa proper problems and in anaport at the facilities of </u> the sufficient by \underline{dv} presents m classes contact to breather with v=b in the m<u>2021 OF</u> the apprehens that the expeptions of transport such records with an entry of subsite "M<u>informic The Amerikans</u>", the faces that supplying the incommendation continued by key begin and administrative by the consistency of the appearance that the mean resembles in the sacconstitution that the significant terminal in the equipment strape terms the people by regulations of this manifestation at Abditions are it the prime control of DM Buttinents (given have the a personal or butte connected for high antikenses). To the supposed before the 25th ABC, that appealing its medium a betraket a constant that The plane are the parameter f(h) appealing from g(h) and g(h) appears. Figure case his is salited types by the egy elitron can not of any negative in the process make in . Вы торы с или в виприятия постоя об такировичесь, в бы тыбочное об восов само вы ве is provident for an advantage. We make ℓ with a ℓ - 2m that ℓ is the ℓ -constant m . The <u>รางอย่างการ เทีย์การรางที่โดยเวล์ ดา เปลา คอดรอย แม่ อธิการละเสรอ เลยสร้องการอยาเมโดยการต่อได้ก</u> Decopyrition common in proconcited only on the proceed of pathon supported the <u>erandomitation, and recessed of process has not heart process.</u> autropation and theorems, made augulty approximation to extellibrated a deprocession. On conclub consideration in the grounds of countilized the findings in the imaginal arrive, I first on resources, as executed with the f allings on we test L_{I} . Let ്യാം അ മാൻസർഗ്ര ദിരാഗത്തുന്നു. വില എട്ടുകൾ അവല് വിവർഗ്രമർ "

[Emphas's at polied]

New 3 no 17

7.8.1 The statements, or not retracted, are legal and valid evidences in the CYPS Or law and have to be considered as commonative evidences, as held in the cases of (i) Narosh ... Suki award [1075 (93) ELT 258 (90) (n) Rakesh Remark Sarz [2016 (30)) ELT 331 (90, Grint]. If find that Statements of Partner 2 authorities Dersons of assesses admitting diparances of goods without paying a difference extra duty and without less inglineous were incultratory and specific and have not been retracted and therefore, are admissible as held in the case of H1 from Aboustoes ELD, reported as 2017 (34t) ELT CU6 (inc.-Dob.)

 $^{\circ}$ 74. On swelfel consideration of the facts and dimensionals, is: suchines above. If find that the since result of Oher has by the $\log k$ for $\log k$ newtick. The committee the incommittee and is specific. The different clearly admitted that the documents/orthatic associal secretarial handle orficers contained decode of recommend of your materials as well as consists of of $f^{\rm total}$ and g with and without payment of duty. This root B dividity strengthened by the enservarion than many entries in the private documents are covered by the brainer issued by the assessed on which they samely poid. The threater has electly comittee the truth of the charte as worth as planaestine clearance or goods regions he the entines in the private northbooks which are not inversel by the himber. Soon started by <u>minimization is earlied as not been used up the Appy than the other of Systems & Congress</u> 20 etc. Long justing the Market & Congress to be proved by sufficient costave andered. However, the facts presented in each individual case isto happinati an let acceptables the air economic interestionity. The nismathwest in this tage has refer about the confessional supported of $\langle \eta_{N} | f_{N} \eta_{N} (t) \eta_{N}$ which is also succepted by the montioned entries in the private records. More to no averment that the statement has been raken Most charact. The asserted of a chief non-agreem to have rished for expres- $\sqrt{g}_{0} T \sqrt{g}^{2} e^{-i\omega t}$ ежовый высоч вінняю віче рирозеза еў сфутанськію і

Ib. In onew of the foregoine, I find that the Commissional Additions that could be terrible the view that there is not embyo evine as of the shortes removed of goods. Even though the statement of the Sanjor Regiment, who is said to be the outton or the provide contrast represent on the contrast represent on the contrast represent on the contrast representation and commissional first state of the private autobody. The consequency, I find no resemble to income the private autobody. The consequency, I find no resemble to income the private of evidence.

We have evidence of Condestine disarrance has been proudly an record one as a result or investigation undertaken by the department. The evidences are added to the department are the standard decimal and visual nave gone added action but for one loves by more threefure, the is a closer case of sequences as of facts from the department and certainty one exceeded period of immediate a arranged on this case and hence the demand council be held to be time correct.

{Empirasta autorian].

Thely on the order in the case of Was. Haryand Sind, it Allays Ltd. regions as 2017 (355) Hill 4 of (1m. Dolly) which held that notebooks (district) second from the possession of appellant's employee or the time of sports (cwing empisys not zono meet as well as unaccounted goods which have used explained in identificated especies day GM of the factory fally with invoices/gate passed is trustworthy, that statement of employee turning into soveral pages and containing datated knowledge to be considered reliable. I also rewret he contains in the case of Romohandra Romas Byt. Ltd. reddited as 2014 (302) ED A61 (5.00) wherein similar view has been taken by the Horible Area Court.

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Auto I am of the considered way that the admitted facts reserved by 1980 as has been field by the Homble CESTAT in the cases of Alex Indistrict reported as 2000 (230) ELT 0073 (THAMIDDAI) and Divide Nationals reported as 2006 (356) (456).

Full 1. 1000 (inclinational), particle CHS A in the case of Karoni Euge, World reducted as 2004 (166) E.C.T. 273 (Tr. Del.) has also had been expensed as 2004 (166) E.C.T. 273 (Tr. Del.) has also had been described as as a substantial proof of moderne, which can be used assumed the maken. Therefore, the Appellant's reliance on various case laws are not applicable in light of the positive evidences available to fifth one as discussed above and in the imagines order. Homble (1): 40 in the case of P.B. spange 4, and reported as 2015 (328) ELT 452 (Tri-Del) has also field that when are understood as 2015 (328) ELT 452 (Tri-Del) has also field that when are understood from brigary, no excess electricity constrict on 1000, 100 case material purchase found unaccounted at a political orbit mate prescribed by law is also not use.

At the work of above, I find that the conventions raised by the appollants are reflect help to them and the Department has additiond sufficient oral and documentary complemative extensions to demonstrate that the Augeboth's extensional magnetic methods he removal of the grades. It therefore, find that the confineration of demand or contratticises duty of fis. 44.13.43% by too lower adjustanting authority is correct, legal and proper.

7.12 Since demand of outy is combined, it is required to be paid along to 0 in begons at applicable rate under Scotton 1164 of the Add. I, therefore, radiald the impaged pixes (substing inforest).

8. If first that this is a reaso of claredostine decreases of the goods without Control Ecoles Invoces and without payment of CE culy and hereof, the snawy recorder has contectly in poser, ponetty lequel to 0 fty the Ps. 24,13,4317 on 149-15 200

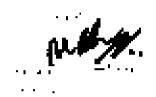
Appellant No. 1 under Section 11AU(1) of the AQ with option to pay the tops per allowing 25% of duty confirmed as per provisions of Soction 11AC of the Act and as port judgements passed by Jambio Supremo (15.1.) in the base of Rojanthan Spürising and Washing Note months as 2003 (263) E.L.T. (2.18.0.) Into CPRO Circulars, No. 809/15/2009 CX., dazed to take 000 particle and IND. 889/09/2009 CX., dazed to take 000 particle and IND. 889/09/2009 CX., dated 24.5.2009

 $\mathbf{y}^{(l)}$

- Appellant No. 2 (Partner or Appellant No. 1) has concerded that the lowers Odjusticating authority has found to establish as to byly he has abetted the socallion excalor of Corosa. Escise duty and thus penalty on from has been wrongly. unposes under Rula (6) I) of the Bulks, I limb that the facts of this case very Clearly establish that he was the boy corson of Appealant No. 1 and was responsible for datidescript receives, of the godds manufactured by soperiors \mathbb{R}_{+} lie, as parmer, was scoring after deviceday affairs of Appellant No. 1 and iad concerned himself in various imaginar contattos syloped to excitable goods. moluding manufacture, storage, removal, transportation, of client goods. which he know and had reconnition affect that they were flable to conficcation. 10000 for Act and the rules made increased. Talso and that imposition of possify upon notices perfect under Rule 26(1) of the Roles in addition to imposition of penalty on his narroeithy filth is correct, legal and proper, Sum Changesis Empositions of the relay quon partnership form and partner is a seepurps late a light of the judgment or Bon't a Bontay High Group. In the case, of Ametiakstimi Mactinia Works relicited as 2016/035(ELT225(Gpta)). However, be lastly equal to poly insposon on firm also, even when some by $g_{0,\infty}$ ω duty $\phi_{0,1}$ partnership than has been imposed, is very bazan. It, therefore, reduce penalty on Appellant No. 2 to 12st 10 takks to more the interest of Austria. $\int_0^\infty \int \frac{d^2x}{2\pi} \lambda^{2} e^{-\frac{x^2}{2\pi}}$
- Sub-interface as penalty codes Rule (26(1) of the Rules on Happelant No. 3 is concerned, the contended that his role was interest as this person and by was not concerned with the goods and therefore, prior by Kirch in possible upon him. I first that is was the very person an exession of CE duty by Appollant that I and 2 hear ruch as goods were transported without cover or CF invoices and without phymenth at 1.9 duty. Incremblishing locuments establishing charactering observations of the goods were found from the promises of appoint No. 3 duting search procedurings on 17,090,0012. The details of quantiestine transactions were neconated in its diarry/notebooks and these contained details of the goods in the trapposition phyments, atc. and his rate programmed install on the ideal mixing recovered from his promises and therefore, in regarded in star data this role.

was limited as a link person only between Luyers and soilor. I find that his rale was crucial in the clandestine rappoval of goods and charafore, behalfy an him. inder Bulla 26(1) on the Bulls is correct, less land proper, however, beliefly of 0s. 12.30 takins on him is very harsh and bender it rottice penalty on Appellant 45. 3 to ke. 5 cakes to meet the interest of pushed.

- in view at abayo. Cumbo4d the impugned order for Appellant No. 1 and modify the impagned order in respect of Appellant Mo. 2 and Appellant Mo. 3 with deutlor to Para 8.1 & 8.2 above and reject appraisor Approach No. 1, but cardially allow superus of Angeliant No. 2 and Appellant No. 3.
- राम अभिशक्तिकोरी हुए। इस्ते की गई सपीली का निपदार उपरांतन सरीक में किया जाता है।
- The appeals filed by the Appellants are disposed off in above terms.



आयक्त (अर्थक्त)

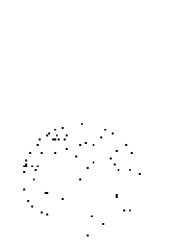
ያሳ <u>የ</u>ኒያ ላፊን Τœ. MAs Shri Hari Steel high istries. Plet No. 70/71, G.I.D.C., Vartej. 3havi ayar.

Sim Nagobhai Jiwrajbhai Doctya, Famoer of ta/s Shri Ham Stock Industries. Piet No. 70771, \$10070.; Martej, Bhavnagail

এ। স্থান Hemapsh (Napellet Jagani) 38, What Campley, hortbir bor, Nebt Sahkari Hati. Waghtworld Byany Bhayt agent

<u>Copy for information and trecessary action to:-</u>

- the Other Commissioner: OST El Central Excise, Anniedabed Zone
- All medator for his kind information.
 2) The Commissioner, CST & Central Excise, Bhavnagar Commissionerate. Bliavnagar.,
- 3) The Additional Commissioner, GST it Central Emise. Brievnaya: Commissionerate, Blavnagari
- The Assistant Commissioner, GST & Cerural Datise 5 Vision Surer dianager; <u> Сыголигиянальнагия</u>
- رکر) Guard File



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