CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
OLD RED BUILDING, 38,M.G.Marg,CIVIL LINES, ALLAHABAD

Dated: 27/1/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/ 70058/2016&STAY ORDER NO 70044/2016 dated 19/1/2016

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 35-C(1) of the **Central Excise and Salt Act, 1944.**

Asstt. Registrar

Application	Appeal	Name and Address of Appellant
E/STAY/51348/2015	E/52079/2015	JVL AGRO INDUSTRIES LTD NAUPUR, JAUNPUR-222109 UP

Name and Address of Respondent: CCE, ALLAHABAD
38 M.G.MARG, CIVIL LINES
ALLAHABAD

Other Appellants and Respondents as per Annexure

Copy To

3Advocate(s) / Consultant(s SH AJAY AGGARWAL,ADV
JEEVAN VIHAR BLD
1ST FLOOR(REAR ENTRANCE)
3, PARLIAMENT STREET
NEW DELHI-01

4 Bar Association, CESTAT, ALLAHABAD

5 Director Publications, Customs, Excise, I.P. Estate, Delhi
6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhishm Pitamah Marg, New Delhi-3
7 Company Law Institute of India Pvt. Ltd., No.2 (old no.36), Vaithyaram Street, T. Nagar, Chennai-17
8 Taxmann Allied Service Pvt. Ltd., 59/32, New Rohtak Road, New Delhi-110005
9 Easy Service Tax Online Dot Com Pvt. Ltd., 407A, Iscon Mall, Satellite Road, Ahmedabad-15
10 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)
11 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi – 110070
12 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad – 38
13 The ICFAI society, 52, Nagarjuna Hill,Panjagutta Hyderabad.-500082
14 C.D.R. 15 Office Copy 16 Guard File

Asstt. Registrar
Regional Bench, Allahabad

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD

SP-51348/2015
& Ex. Appeal No.52079/2015

Arising out of O/O No.MP(Dem-78/2013) 01 of 2015 dated 12.01.2015 passed by Commr. of Customs & Central Excise & S.Tax, Allahabad.

For approval and signature:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. H. K. THAKUR, MEMBER (TECHNICAL)

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	: No
2.	Whether it should be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	: Yes
3.	Whether His Lordship wishes to see the fair copy of the Order?	: Seen
4.	Whether Order is to be circulated to the Departmental Authorities?	: Yes

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M/s JVL Agro Industries Ltd.

...APPELLANT(S)

VERSUS

Commr. of Customs,Central Excise & S. Tax, Allahabad

RESPONDENT (S)

APPEARANCE

None for the Appellant (s)
Shri Rajkumar Maji, Asstt.Commr. (D.R.) for the Department

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. H. K. THAKUR, MEMBER (TECHNICAL)

DATE OF HEARING & PRONOUNCEMENT : 19. 01. 2016

Final **ORDER NO.** 70058 /2016
STAY. ORDER NO. 70044/2016

CUSTOMS EXCISE & SERVICES TAX APPELLATE TRIBUNAL

Per Mr. Anil Choudhary :

The appellants have filed the present appeal on 16.04.2015 against OIO dated 12.01.2015, by which duty of Rs.1,73,64,280/-, have been demanded. The appellants have not made mandatory predeposit required under Section 35F of the Act. On Defect Memo issued by the Registry as regards the mandatory predeposit required under Section 35F of the Act, the appellants have filed Stay Application on 27.05.2015 praying for waiver of predeposit of the tax, duty and penalty.

2. The appellant is absent on call in spite of notice.

3. Heard the ld.DR for the Revenue, who relies on the ruling of the Hon'ble Allahabad High Court in the case of Ganesh Yadav Vs. Union of India : 2015 (320) ELT 711 (All.), wherein it has been held that this requirement of compulsory predeposit under Section 35F, is not arbitrary or violative of Article ~~15~~ 14 of the Constitution of India. This Tribunal being a creature of Statute, cannot waive the amount of predeosit being mandatory under the provisions of Section 35F of the Act. Accordingly, in absence of predeposit having been made, the stay application and the appeal are rejected.

4. Later, an employee of the assessee, appears with a time petition on the ground that as their Consultant is not well, the hearing be adjourned. Under the circumstances and the matter being covered by the ruling of the Hon'ble Allahabad High Court, time petition is

rejected. However, the appellant is granted at liberty to apply for for restoration after making mandatory predeposit.

5. Thus, the stay petition and the appeal, stand dismissed.

(Pronounced in the open Court)

Sd/-

(H.K.THAKUR)
MEMBER (TECHNICAL)

Sd/-

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

mm

प्रमाणित प्रति / Certified True Copy
17.2.16
सहायक पंजीकार / Asstt. Registrar
सीमाशुल्क, उत्पादशुल्क एवं सेवा कर अपील अधिकरण / (C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001