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

Dated: 14/12/2015

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/ 70084/2015& Misc order no 70028/2015 dated 08/12/2015

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.

14/12
Asstt. Registrar/ SPS

Application	Appeal	Name and Address of Appellant
ST/MISC/70024/2015	ST/56605/2013	J.K.ENGINEERING C/O M/S DALLA CEMENT FACTORY AF-13/2, DALLA , SONEBHADRA(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 ATUL KUMAR GUPTA,FCA
259, AGGARWAL SHOPPING
CENTRE, CD BLOCK, PITAM PURA
DELHI-110034

4 Bar Association, CESTAT, Delhi
5 Director Publications, Customs, Excise. I.P. Estate, Delhi
6 M/s Centax Publications Pvt. Ltd., 1512-B, Bhisham 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 Punjagutta Hyderabad.-500082
14 C.D.R. 15 Office Copy 16 Guard File

14/12
Asstt. Registrar/SPS
Regional Bench, Allahabad

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

MA-70024/15
& S.T. Appeal No.56605/13

Arising out of O/O No.ST-150/2011/42 of 2012 dated 27.12.2012 passed by Commr. of Central Excise & Service Tax, Allahabad.

For approval and signature:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. B. RAVICHANDRAN, MEMBER (TECHNICAL)

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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 J. K. Engineering

...APPELLANT(S)

VERSUS

Commissioner of Central Excise & S. Tax, Allahabad

RESPONDENT (S)

APPEARANCE

None for the Appellant (s)
Shri S. L. Karoliya, Asstt.Commr. (D.R.) for the Department

CORAM:

HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. B. RAVICHANDRAN, MEMBER (TECHNICAL)

DATE OF HEARING & PRONOUNCEMENT : 08. 12. 2015

Final order No 70084/15 &
Misc. order No 70028/15

Per Mr. Anil Choudhary :

None present for the Appellant, nor any request for adjournment. Accordingly, we have heard the ld.A.R. for the Revenue.

2. Vide this Tribunal's Stay Order No.52579/2015 dated 14.07.2015, the Appellant was directed to make predeposit of the entire assessed liability within four weeks and to report compliance on 27.08.2015. The Order was dispatched by the Registry on 27.07.2015 by Registered/AD and the same was not returned as un-delivered by the postal authorities. The appellant filed Miscellaneous Application on 06.10.2015 registered as MA No.70024/15, wherein prayers have been made for grant of further time for making predeposit on the premises that the appellants have already made deposit of Rs.47,83,198/- and their business is lying closed since April, 2011 and some of the payments were held-up with the service receiver. Accordingly, further three months time was prayed to make the payment balance amount of adjudicated tax of Rs.31,55,910/-. The Miscellaneous Application was taken up on 13.10.2015 in the presence of Shri Arihant Jain for the appellant. Shri Jain filed an Undertaking dated 12.10.2015 signed by the Proprietor of the Appellant Company stating that the balance amount will be paid as follows :

I Instalment	Rs.7,50,000/-	On or before 31st Oct.'2015
"II Instalment	Rs.7,50,000/-	On or before 30th Nov.'2015
"III Instalment	Rs.7,50,000/-	On or before 31st Dec.'2015
"IV Instalment	Rs.9,05,910/-	On or before 31st Jan.'2016
Total	**Rs.31,55,910/-**	

AC

In view of the undertaking given, this Tribunal allowed further time to deposit and to report compliance of deposit of the 1st Installment on the next date, i.e. 17.11.2015. On 17.11.2015, no one is present for the appellant nor any compliance was reported in terms of the undertaking given. Notice was issued to the appellant to report compliance by the next date fixed, failing which, the Misc.Application and Appeal will be liable to be dismissed. Today, when the matter is taken up, nobody was present for the appellant nor any compliance report produced before this Tribunal. The matter was passed over once and again called for second time at about 1.30 P.M., but no one was present for the appellant.

3. The ld. A.R. for the Revenue, submits that since the Appellant has not complied with the direction of predeposit, their appeal is liable for dismissal.

4. Since, the Appellant had failed to comply with the direction of predeposit in spite of sufficient time accorded by this Tribunal, their appeal is dismissed for non-compliance with the provisions of Section 35F of the Central Excise Act, 1944 as applicable to service tax matters by virtue of Section 83 of Finance Act, 1994. Appeal is dismissed. Accordingly, MA also stands dismissed.

(Dictated and pronounced in the open Court)

(B. RAVICHANDRAN)
MEMBER (TECHNICAL)

(A.CHOUDHARY)
MEMBER (JUDICIAL)