FAX : 0532-2400149 REGISTERED / AD

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
38,MG Marg Civil Lines,Old Red Building,Allahabad-211001
Regional Branch, Allahabad

Dated: 28/09/2016

To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. ST/A/70898/2016-CU[DB] dated 22/09/2016

I am directed to transmit herewith a certified copy of order passed by the Tribunal under section 01(5) of the **Finance Act, 1994 relating to Service Tax Act, 1994.**

Asstt. Registrar

	Application	Appeal	Name and Address of Appellant
1	ST/MISC/70305/2016	ST/70562/2016	VIKRANT INDUSTRIES C-228, B.S.ROAD IND. AREA,GHAZIABAD U.P.
			Name and Address of Respondent
2			C.C.E. & S.T.-Ghaziabad 202...WING A C.G.O. COMPLEX-II,KAMLA NEHRU NAGAR, GHAZIABAD,UTTAR PRADESH-201002

Copy To

3Advocate(s) / Consultant(s):

Rajesh chibber
FA-9, KAVI NAGAR,
GHAZIABAD,
UP

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 LAWCRUX Advisors Pvt. Ltd., LAW House, 1-8, Sector-10, Faridabad 121003 (Haryana)

10 TaxIndiaOnline.com Pvt. Ltd., 2nd Floor, Vasant Arcade, Vasant Kunj, New Delhi - 110070
11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad -- 38
12 The ICFAI society, 52, Nagarjuna Hill,Punjagutta Hyderabad.-500082
13 M/S Knowledge Processing Pvt. ltd.(taxmanagementindia.com),FF-19,1st Floor,Cross River Mall,CBD Ground,Near Karkardooma Court,Delhi-110032
14 C.D.R. 15 Office Copy 16 Guard File

Asstt. Registrar

27/10/16

ISSUED ON

SIGN. (DESPATCH SECTION)
CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
38, M. G. MARG, ALLAHABAD-211001.

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, REGIONAL BENCH: ALLAHABAD

DIVISION BENCH

ST/Misc/70305/2016
Appeal No. ST/70562/2016-CU(DB)

Dated of Hearing/decision: 22/09/2016

[Arising out of Order-in-Appeal No. GZB-EXCUS-000-APP-331-15-16 dated 24.2.2016 passed by Commissioner (Appeals), Central Excise & Service Tax, Meerut-II at NOIDA]

For approval and signature:

Hon'ble Shri Anil Choudhary, Judicial Member
Hon'ble Shri Anil G. Shakkarwar, Member (Technical)

1.	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	No
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	Yes
3.	Whether their Lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	Yes

Vikrant Industries — Appellant

Vs.

C.C.E. & S.T. Ghaziabad — Respondent

Appearance:
Present for the Appellant: Shri Rajesh Chibber, Advocate
Present for the Respondent: Shri B. Kumar Iyer, (Superintendent)

Coram: Hon'ble Shri Anil Choudhary, Member (Judicial)
Hon'ble Shri Anil G. Shakkarwar, Member (Technical)

Final Order No. 70898/2016

Per: Anil Choudhary

The Misc. Application has been filed for early hearing.

2. The Ld. Counsel for appellant explained that Commissioner (Appeals) dismissed their appeal on the ground that the appellant did not comply with Section 35F of the Central Excise Act.

3. The Ld. Counsel submitted that he had already deposited more than 7.5% of the service tax demand. He submitted that they had already depositedRs.12,43,555.00 which is more than 7.5% of the demand adjudicated by the original authority to the tune of Rs.34,75,853.00. Said amount was deposited before passing of the order-in-Original, but as the appellant could not appear before original authority, the same could not be taken note off. The appellate authority has not considered the said deposit towards Section 35F of the Central Excise Act.

4. Heard the ld. A.R.

5. Having considered the rival contentions we hold that Commissioner (Appeals) has erred in not considering the payment made before passing of the Order-in-Original. Having satisfied with the submission of appellant we allow the Misc. Application for early hearing and take up the appeal also for disposal.

6. Accordingly we allow the appeal by way of remand. We direct the appellate authority to pass reasoned order on merits. Misc. Application also stands disposed off.

(Dictated and pronounced in the open Court)

Sd/-
(ANIL G. SHAKKARWAR)
MEMBER (TECHNICAL)

Sd/-
(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

(K. Gupta)

प्रमाणित प्रति / Certified True Copy
25.10.16
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