

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

Dated: 05/09/2017

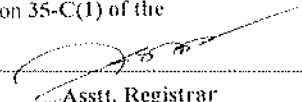
To

Appellant as per address in table below

Respondent as per address in table below

Final Order No. A/70832/2017-EX[DB] dated 31/07/2017

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
1	E/2843/2007	EVEREADY INDUSTRIES INDIA LTD. B-1/B-2, SECTOR 80, PHASE-II, NOIDA , GAUTAM BUDH NAGAR, U.P.-201305
2		Name and Address of Respondent -C.C.E. NOIDA C-56/42, Sector-62, Noida- 201307

Copy To

3 Advocate(s) / Consultant(s):

**B. L. Narasimhan, (Advocate) ALD
 3/1A/3 OPP AUTO SALES, Above
 the Office Of Blue Dart/DHL
 Courier, COLVIN ROAD, LOHIA
 MARG ALLAHABAD-211001**

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

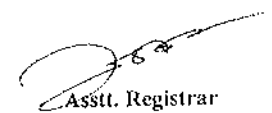
11 Mark Professional Services Pvt. Ltd., 108, Everest Block, Aditya Enclave, Hyderabad - 38

12 The ICFAI society, 52, Nagarjuna Hill, Punjagutta Hyderabad.-500082

13 M/S Knowledge Processing Pvt. Ltd.(taxmanagement(india.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

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I**

APPEAL No. E/2843/2007-EX[DB]

(Arising out of Order-in-Appeal No. 74/CE/APPL/NOIDA/07 dated 27/07/2007 passed by Commissioner (Appeals), Customs & Central Excise, Noida)

M/s. EVEREADY INDUSTRIES INDIA LTD.

Appellant

Vs.

Commissioner of Central Excise, NOIDA

Respondent

Appearance:

Shri B. L. Narasimhan (Advocate)

for Appellant

Shri Gyanendra Kumar Tripathi (Asst. Commr.) AR

for Respondent

CORAM:

Hon'ble Mr. Anil Choudhary, Member (Judicial)

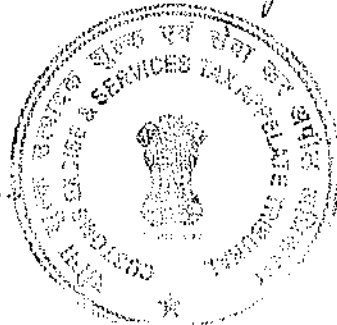
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 31/07/2017

Date of Decision : 31/07/2017

FINAL ORDER NO. --- 70832/2017 ---

Per: Anil Choudhary



The short question in this appeal which is being decided by a common order is as to whether the dry battery cells and torches manufactured and to be supplied as free gifts are required to be assessed under Section 4A of the Central Excise Act, 1944, as held by the authorities below or under Section 4 of the Central Excise Act, as contended by the assesses/appellant.

2. Both sides fully agree that the issue is covered by the Hon'ble Supreme Court decision in the case of Jayant Food

Processing (P) Ltd. vs. C.C.E., Rajasthan - 2007 (215) ELT 327 (SC). We also note that by following the said judgment, the Chennai Bench of this Tribunal in the same appellant's case has held as under:

"6. The facts of the instant case are identical to the case considered by the Apex Court in the Jayant Food Processing (P) Ltd. (supra) case discussed above. Dry cell batteries are sold by M/s Eveready in bulk to RPL/RCIL. These dry cell batteries are not sold to customers but are given free of cost. Therefore, there is no need to print MRP on the package of dry cell batteries supplied free to customers of Dettol soap/Mosquito coil. As SWM Act and Rules do not require fixing MRP on such dry cell batteries, the question of assessing the said goods in terms of provisions of Section 4A is ruled out. Therefore, the appeal of the assessee is allowed and the Revenue's appeal dismissed."

3. In view of the above, we set aside the impugned order and allow the appeal with consequential relief to the appellant.

/(Dictated & Pronounced in Court)

-Sd/-

(ANIL G. SHAKKARWAR)
Member (TECHNICAL)

-Sd/-

(ANIL CHOUDHARY)
Member (JUDICIAL)

Lks

प्रमाणित प्रतिलिपि/Certified True Copy

सहायक रजिस्ट्रार/Asstt. Registrar
सीमांत, उत्तराखण्ड एवं मेवा कर
अधीन अधिकरण/(C.E.S.T.A.T.)
38, एम. जी. मार्ग, इलाहाबाद-211001
38, M. G. MARG, ALLAHABAD-211001

