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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
EXCISE APPEAL BRANCH

Appeal No. E/6271/2004 Date 27/08/2008

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
EVEREADY INDUSTRIES INDIA LTD.
2,RAINEY PARK KOLKATA
700019

EVEREADY INDUSTRIES INDIA LTD. Appellant
Vs
C.C.E.KOLKATA Respondent

I am directed to transmit herewith a certified copy of **Final order No.**627/08-EX **Excise** dated 14-8-08

passed by the Tribunal under Section 35-C(1)of Central Excises Act, 1944

Assistant Registrar

(Excise Appeal Branch)

Copy to :
1. Respondent
   C.C.E.KOLKATA
   169,A.J.C.BOSE ROAD,KOLKATA
   700019
2. Adv. / Consult
   MR.RAVI RAGHWAN,
   B-6/10 SAFDARJUNG ENCLAVE, NEW DELHI 110029
3. C.D.R.
4. ~~J.C.D.R.~~
5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017
7. M/s Centax Publictions (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)
9. Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
12. Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar,Chennai 60017
13. Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
14. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15
15. Office Copy
16. Guard file

Assistant Registrar

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. II
Excise Appeal No. 6271 of 2004

[Arising out of the Order-in-Appeal No. 099/Kol-VI/2003 dated 25/11/2003 passed by The Commissioner of Central Excise (Appeals-II), Kolkata.]

For Approval and signature :
Hon'ble Shri S.S. Kang, Vice President
Hon'ble Shri Rakesh Kumar, 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?	:
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	:
3.	Whether their Lordships wish to see the fair copy of the order?	:
4.	Whether order is to be circulated to the Department Authorities?	:

M/s Eveready Industries India Ltd. — Appellant

Versus

CCE, Kolkata – VI — Respondent

Appearance

Shri Ravi Raghavan, Advocate – for the appellant.

Shri V. Choudhary, Authorized Representative (DR)– for the Respondent.

CORAM:**Hon'ble Shri S.S. Kang, Vice President**
Hon'ble Sh. Rakesh Kumar, Member (Technical)

DATE OF HEARING : 14/08/2008.

FINAL Order No. [illegible] Dated : ____________

Per. S.S. Kang :-

Heard both sides. The appellant filed this appeal against the impugned order, whereby demand was confirmed ~~was~~ after denied credit of duty paid on inputs on the ground that the manufacturer has paid duty under protest. We find that this issue is settled by the decision of the Tribunal in the case of **Jayaswals Neco Limited vs. Commissioner of Central Excise, Raipur** reported in **2005 (191) E.L.T. 519 (Tri. – Del.)**, where the Tribunal by held that in case the assessee is receiving inputs under invoices showing the payment of duty even if paid under protest and there is no dispute regarding the payment of duty cenvat credit can not be denied. In ~~such~~ Thus case, once the duty has been paid, whether paid under protest or otherwise by the manufacture of inputs, the recipient of inputs ~~are~~ is entitled for taking credit in respect of duty paid on inputs.

In view of the above ~~decision~~, the impugned order is set aside and the appeal is allowed.

(Dictated and pronounced in open court)

(S.S. Kang)
Vice President

(Rakesh Kumar)
Member (Technical)

PK