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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/2226/2010 - EX[DB] WITH E/S/2112/2010-EX Date **24/02/2011**

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

To :
C.C.E. MEERUT I

EXCISE CHOWK,OPPOSITE CHOUDHARY CHARAN
SINGH UNIVERSITY MANGAL PANDAY NAGAR,
MEERUT - 250005.

C.C.E. MEERUT I Appellant

Vs

M/S EVEREADY INDUSTRIES LTD. **STAY ORDER NO. 285/2011-EX** Respondent

I am directed to transmit herewith a certified copy of **Final order No. 204/ 2011 EX[DB]** dated 18-2-11 passed by the Tribunal under **Section 35-C(1)of Central Excises Act, 1944**

Assistant Registrar
(Excise Appeal Branch)

Copy to :

1. Respondent
M/S EVEREADY INDUSTRIES LTD.
E-32, SELAQUI, DEHRADUN.

2. Adv. / Consult SH. B.L. NARASIMHAN, ADV.
L/O. RESPONDENT.

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise, I.P. Estate, New Delhi
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. M/s. Deeparchie Publications, M-93, Marg, 46, Saket, New Delhi 110017
9. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005
10. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
11. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
12. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
13. Office Copy
14. Guard file
15. HON'BLE PRESIDENT.

Assistant Registrar
(Excise Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing/decision:18.2.2011

Stay Application No.2112 of 2010 in
Central Excise Appeal No.2226 of 2010

C.C.E., Meerut ... Appellant

Vs.

M/s Eveready Industries Ltd. .... Respondent

Appearance:

Shri Sunil Kumar, Authorized Departmental Representative (DR) for the Revenue and Shri B.L. Narasimhan, Advocate for the respondents.

Coram: Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri Rakesh Kumar, Technical Member

Oral Order Nc

STAY order No. 285 / 2011-EX

Per Shri Justice R.M.S. Khandeparkar:

Heard. As we propose to dispose of the appeal itself, the application is disposed of with direction to the registry to place the appeal for hearing forthwith.

(Justice R.M.S. Khandeparkar)
President

Rakesh Kumar)
Technical Member

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

West Block No.2, R.K.Puram, New Delhi

COURT-I

Date of hearing/decision:18.2.2011

Central Excise Appeal No.2226 of 2010

Arising out of the order in appeal No.03-CE/MRT-I/2010-11 dated 22.4.2010 passed by the Commissioner (Appeals), Customs & Central Excise, Meerut I.

For Approval and Signature:

Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri Rakesh Kumar, Technical Member

1	Whether Press Reporter may be allowed to see the Order for publication as per Rule 26 of the CESTAT (Procedure) Rules, 1982?	Yes
2	Whether it should be released under Rule 26 of CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
3	Whether their Lordships wish to see the fair copy of the Order?	Seen
4	Whether Order is to be circulated to the Departmental authorities?	Yes

C.C.E., Meerut ... Appellant

Vs.

M/s Eveready Industries Ltd. .... Respondent

Appearance:

Shri Sunil Kumar, Authorized Departmental Representative (DR) for the Revenue and Shri B.L. Narasimhan, Advocate for the respondents.

Coram: Hon'ble Shri Justice R.M.S. Khandeparkar, President
Hon'ble Shri Rakesh Kumar, Technical Member

FINAL Oral Order No. 204/2011-EX

Per Shri Justice R.M.S. Khandeparkar:

Heard the DR for the appellant and the Advocate for the respondents. At the outset, the learned Advocate for the respondents has placed on record a copy of the order dated 16.11.2010 passed by the Deputy

Commissioner while contending that under the impugned order, the matter was remanded to be decide by the adjudicating authority and accordingly, the adjudicating authority has already disposed of the proceedings and that too, in favour of the Revenue and therefore, the present appeal itself does not survive. Undisputedly, the present appeal arises from the order dated 22.4.2010. By the impugned order, the Commissioner (Appeals), Meerut has set aside the order dated 20.11.2009 passed by the Deputy Commissioner. The Deputy Commissioner has rejected the claim for refund of Rs.1,41,35,337/- filed by the respondents. Aggrieved by the said order, the respondents had carried the matter in appeal before Commissioner (Appeals) who had set aside the order of the Deputy Commissioner and had remanded the matter for reconsideration by the impugned order. Apparently, pursuant to the said remand order, the Deputy Commissioner by its order dated 16.11.2010 disposed of the proceedings. Obviously, therefore, nothing survives in the appeal before the Tribunal. The impugned order not only stands complied with but also the proceedings before the authority before whom the matter was remanded also stand concluded. In such circumstances, the appeal is infractuous and hence the same is accordingly disposed of.

(Justice R.M.S. Khandeparkar)
President

Rakesh Kumar)
Technical Member

scd/