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

Appeal No. C/942 /2005 - CU[DB] Date 10/11/2008

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

To :
THE COMMISSIONER OF CUSTOMS & CENTRAL
EXCISE,
P.B.NO.10, MANIK BAGH PALACE, INDORE
(M.P.) - 452001

THE COMMISSIONER OF CUSTOMS & CENTRAL EXCISE, INDO — Appellant

Vs

M/S BHASKAR INDUSTRIES LTD, BHOPAL — Respondent

I am directed to transmit herewith a certified copy of **Final order** No. C/574/08-CUS DATED 31.07.08

passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar
(Customs Appeal Branch)

Copy to :
1. Respondent M/S BHASKAR INDUSTRIES LTD,
6, DWARKA SADAN, PRESS COMPLEX,
ZONE-1, M.P. NAGAR, BHOPAL – 11.

2. Adv. / Consult ARTHUR PREM, CONSLT.,
120, UNIVERSAL INUS. ESTATE,
ANDHERI(W), MUMBAI – 58.

3 S.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 - 3
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
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
(Customs Appeal Branch)

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
Customs Appeal No. 942 of 2005

[Arising out of the Order-in-Appeal No. IND-I/281/2005 dated 29/08/2005 passed by The Commissioner (Appeals-I), Customs & Central Excise, Indore.]

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?	:

CC, Indore — Appellant

Versus

M/s Bhaskar Industries Ltd. — Respondent

Appearance

Shri B.K. Singh, Authorized Representative (DR) – for the appellant.

Shri J. Arthur Prem, Consultant – for the Respondent.

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

DATE OF HEARING : 31/07/2008.

Final Order No. C/574/08 Dated : 31/7/08

Per. S.S. Kang :-

Heard both sides. Revenue filed this appeal against the impugned order, whereby benefit of Notification No. 21/2002 - CUS was allowed in respect of the shrinking range imported by the respondent. Notification provided concessional rate of duty in respect of pre-shrinking range for flat and knitted goods. Adjudicating Authority denied the benefit of the notification on the ground that the imported machine is only capable of pre-shrinking of flat goods and not of knitted goods. On appeal filed by the present respondent, Commissioner (Appeals) allowed the benefit of the notification.

2. The contention of Revenue in the appeal is that the notification provides concessional rate of duty in respect of pre-shrinking range of flat knitted goods. The machine covered under the notification must be capable of use for both type of goods flat and knitted. In the present case, the machine in question is

only capable of shrinking of flat goods. As the machine, in question, is not capable for working on knitted goods, therefore, the same is not entitled for benefit of notification. The Revenue also submitted that as per the notification, the machine should be for pre-shrinking and pre-shrinking process is ~~apply~~ applied to fabric which is further used in the manufacture of made ~~of~~ up articles. In the present case, the respondents are clearing denim, as such, therefore, are not entitled for the benefit of the notification.

3. Contention of respondent is that as per Fairchild's dictionary of Textiles (sixth edition), the term "Pre-shrinking" process applied to Fabrics before cutting-up to hold to a specified minimum ~~the~~ degree of shrinkage, which will occur after the made-up articles are washed. The shrinking is defined, on process for shrinking fabric with steam, cold or hot water before cutting-up and making into garments to avoid excessive shrinking in the garments. In the present case, machine, in question, is ~~use~~ used for shrinking ~~in~~ denim, which is for manufacture of articles. It is also submitted that as the denim is a flat fabric and the machine is used at pre-shrinking stage on the flat products goods, therefore, are entitled for benefit of the notification.

4. We find that the machine in question is for pre-shrinking of flat goods ~~that~~ and this fact is not in dispute. The only contention of revenue is that the machine is not capable for use on knitted fabric and the notification provides concessional rate of duty to shrinking range for flat knitted goods. We find that as per the notification, the pre-shrinking range for flat and knitted goods is entitled for confessional rate of duty. The present machine in question is used for pre-shrinking of flat goods. As the concessional rate of duty is available to both type of machines and as the present machine is of use for flat goods, therefore, we find no infirmity in the impugned order. The appeal is dismissed.

(Dictated and pronounced in open court)

(S.S. Kang)
Vice President

(Rakesh Kumar)
Member (Technical)

PK