

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

Appeal No. E/952 /2006-SM[BR]

Date 31/03/2008

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

To :  
CCE,INDORE  
P.B.NO-10,MANIK BAGH PLACE INDORE(MP)  
CCE,INDORE

Appellant  
Vs  
Respondent

M/S INDO RAMA TEXTILES LTD.

I am directed to transmit herewith a certified copy of Final order No.509 /2008 -SM[BR] dated 5.12.2007

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

  
Assistant Registrar  
(SM Appeal Branch)

**Copy to :**

1. Respondent

M/S INDO RAMA TEXTILES LTD. PLOT NO. 51-A, INDUSTRIAL AREA SECTOR-III

PITHAMPUR

2. Adv. / Consult

NONE-----

3. S.D.R.

~~4. J.C.D.R.~~

5. Bar association, CESTAT, New Delhi

6. M/s. Deeparchi Publications, M-93, marg. 43, saket, New

7. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah

8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301

9. R.Venkatraman Constt. 44-B, S.Suncity, Ghaziabad -

10. Nidheshak publications, I.P.Estate, new Delhi

11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh,

12. Co, Law Institution

13. TAX INDIA, B-XI/8183, Vasant Kunj, New Delhi - 110070

14. Office Copy

15. Guard file

  
Assistant Registrar  
(SM Appeal Branch)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,**  
**PRINCIPAL BENCH, NEW DELHI**  
**COURT NO. II**

Excise Appeal No. 952 of 2006-SM

[Arising out of Order-in-Appeal No. IND-I/295/2005 dated 31.8.2005 passed by Commissioner of Customs & Central Excise (Appeals), Indore (MP)]

For approval and signature:

Hon'ble Mr. S.S. Kang, Vice President

- 
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 should 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 :  
Departmental authorities?

ND

---

Commissioner of Customs &  
Central Excise, Indore (MP)

Appellant

Vs.

M/s. Indo Rama Textiles Ltd.

Respondent

Appearance:

Ms. Archana P. Tiwari, Jt.CDR for the Appellant  
None for the Respondent

Date of decision : 5.12.2007

Final ORDER NO. 509/08-SM (AR)

**Per S.S. Kang:**

Heard Learned Jt. CDR. None appeared on behalf of the respondents in spite of notice. Revenue filed this appeal against the impugned order whereby the appeal filed by the respondent was allowed.

2. Brief facts of the case are that the respondents are engaged in the manufacture of man made yarn and were working under the Cenvat credit scheme. The respondents are taking credit in respect of duty paid on inputs used in relation to the manufacture of their final product. The respondents cleared certain quantity of yarn on payment of duty which was received back in the factory. The respondents, after rewinding and repacking of the yarn, again cleared the same. In the process of rewinding and repacking the respondents used certain inputs such as cones and packing material on which credit was availed. The show cause notice was issued for recovery of Cenvat credit of Rs.84,416/- and for imposition of penalty on the ground that respondents wrongly availed credit in respect of inputs and for material which was not used in the manufacture of excisable goods. The adjudicating authority confirmed the demand and imposed the penalty. The Commissioner (Appeals) on appeal filed by the respondents, set aside the demand and penalty. The contention of the Revenue is that as per the Cenvat credit Rules, the manufacturer can take credit of the duty paid on inputs which are used in or in relation to the manufacture of excisable goods. The processing undertaken by the respondents in respect of the goods received back in the factory such as rewinding and repacking does not

amount to manufacture. Hence, the credit in respect of inputs used in such activity is not available to the respondents.

3. I find that the Commissioner (Appeals) in the impugned order held that even during the course of manufacture of yarn if certain amount of inputs become defective or some of the final product become defective and it was reconditioned or remade, the credit cannot be denied in respect of the inputs used in such activity. Similarly, the credit in respect of the inputs used in the goods received in the factory is also admissible. I find that the respondents clear the goods on payment of duty and some of the goods were received back in the factory because the same defects. The defects were removed by way of rewinding and repacking, which does not amount to manufacture. At the most, we can say that the goods were cleared after repair. It is settled law that manufacturer is not entitled for credit in respect of inputs used for repair as repair does not amount to manufacture. In these circumstances, the impugned order is not sustainable, hence, set aside and the order passed by the adjudicating authority is restored and the appeal is allowed.

(Dictated in the open Court)

( S.S. Kang )  
Vice President

SS