

GRAM: CEGCANAL

REGISTERED/A.D

THE CUSTOMS, EXCISE & GOLD (CONTROL) APPELLATE TRIBUNAL,

West Block No. 2, R.K. Puram, New Delhi - 110066.

BENCH NB(SM)

Appeal No. E/2992/2000 -NB(SM)

Dated: 9/2/01

CEGAT  
NEW DELHI

To,

M/s. Indian Shaving Products Ltd.

Plot No SPA - 65 - A

Bhimwadi Indl. Area, (Raj)

In the matter of:

M/s Indian Shaving Products Ltd. Appellant

vs.

CCE Jaipur Respondent

I am directed to transmit herewith a certified copy of Final Order No. A/204/01/NB(SM)  
Dated: 3-2-2001 passed by the Tribunal under Section 35-C(1) of Central Excise  
& Salt Act, 1944/Section 129 (B) of the Customs, Act, 1962.

Copy to:

1. CCE Jaipur
2. CGE/CC/(Appeal) Jaipur
3. Chief Commissioner of Central Excise / Customs. Jaipur
4. Adv. / Consult. Ms. Anita Rastogi, Adv.  
c/o M/s Indian Shaving Products Ltd.
5. S.D.R
6. JCDR
7. Bar Association, CEGAT, New Delhi
8. Library, CEGAT, New Delhi
9. Director (Review), C.B.E.C. North Block, New Delhi
10. Guard File.
11. M/s Deeparchic Publications, M-93, Marg-46, Saket, New Delhi.
12. M/s Centax Publications (P) Ltd., 1512-E, Bhishm Pitamah Marg, opp. Sachdeva P.T. College of Defence Colony, New Delhi-110003
13. M/s Lex Site Com. Ltd., Mumbai
14. Office Copy
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BCL  
Asstt. Registrar  
NB(SM)

BCL  
Asstt. Registrar

CUSTOMS, EXCISE AND GOLD (CONTROL) APPELLATE TRIBUNAL  
NEW DELHI:

Appeal No. E/2992/2000-NB(SM)

(Arising out of Order-in-Appeal No. 606 (KDT)CE/JPR-  
i/2000 dated 26.6.2000 passed by the Commissioner  
(Appeals) Central Excise, Jaipur (Raj.))

M/s. Indian Shaving Products Ltd. .. Appellants  
(Rep. by Ms. Anita Rastogi, Advocate)

vs.

C.C.E. Jaipur .. Respondents  
(Rep. by Smt A.K. Jain, JDR)

FINAL Order No. A/204/01/NB (SM)  
dt: 29.1.2001

Per K.K. Bhatia, Member (T):

The present appeal has arisen consequent upon  
the remand order of the Tribunal vide Final Order No.  
A/1613/96-NB dt. 20.6.96 in the following terms:

" We have heard both sides. The question for  
determination are basically whether modvat  
credit in respect of these inputs was reversed  
and whether remaining goods were actually  
consumed in the manufacture of the final  
product. Our attention has been drawn by the  
ld. C.A. in their reply to the show cause  
notice at page 30 of the paper book where they  
had taken these pleas. We however, find that  
the Collector has not given any specific  
finding on these pleas. Since basically the  
question is whether credit was reversed and  
remaining inputs were actually consumed, we  
consider it a fit case for remand. We  
therefore, dispense with the pre-deposit of  
duty and remand the case to the Commissioner  
for de novo decision after ascertaining whether  
credit was reversed and whether remaining  
inputs were ultimately used in the manufacture  
of the finished goods in the factory and after  
observing principles of natural justice".

2. Consequent upon the above remand order, the Dy.  
Commissioner of Central Excise, Jaipur has adjudicated  
the case in de-novo proceedings and vide his order dt.  
28.9.98 he has disallowed the modvat credit of  
Rs.82,346.36 to the appellants under Rule 57-I of the  
Central Excise Rules, 1944. He has further imposed a

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penalty of an equivalent amount on them under Section 11AC of the Central Excise Rules, 1944.

3. The appellants filed an appeal and the Commissioner (Appeals), Jaipur vide his order dt. 26.6.2000 has upheld an amount of Rs.59,540/- confirmed on the appellants by the lower authority besides upholding the penalty of the equivalent amount.

4. The party is in appeal against the above order of Commissioner (Appeals). I have heard Ms. Anita Rastogi, Advocate for the appellant and Shri A.K. Jain, JDR for the Respondents. When the ld. Advocate for the appellants proceeded to argue the case of her clients on merits, it was observed that the Tribunal vide their order dt. 20.6.96 had remanded the case to the Commissioner for de-novo consideration, but however, the de-novo order has been passed by the Dy. Commissioner of Central Excise. These facts are not disputed either by the ld. Advocate for the appellants or by the ld. JDR for the Respondents. In view of this, the adjudication by the Dy. Commissioner is in clear violation of the remand order of the CEGAT and therefore, further proceedings are vitiated.

5. In view of the above, orders passed by the lower authorities are set aside and the matter is remanded to the Commissioner for passing de novo order in terms and conditions of the CEGAT Order dt.20.6.96.

6. The appeal is disposed of in above terms.

(Announced and dictated in the Court)

(K.K. Bhatia)  
Member (Technical)