

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

Appeal No. E/2937/2007 & E/S/2614/2007-EX

Date 06/02/2008

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

To :  
C.C.E. JALLANDHAR(HQ. AT CHANDIGARH)  
C.R.BUILDING, PLOT NO. 19, SECTOR 17-C,  
CHANDIGARH.

C.C.E. JALLANDHAR(HQ. AT CHANDIGARH)

Appellant

M/S DHILLON KOOL DRINKS & BEVERAGES LTD

Vs

Respondent

I am directed to transmit herewith a certified copy of Final order No. *39/08* Excise dated *29-1-08*  
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

*STAY ORDER NO. 104/08-EX.*

Assistant Registrar  
(Excise Appeal Branch)

Copy to :

1. Respondent

M/S DHILLON KOOL DRINKS & BEVERAGES LTD  
PHILLAUR, PUNJAB.

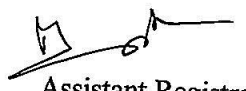
2. Adv. / Consult

*SH. SUNIL, ADV.,*  
*C/O RESPONDENT*

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  
(Excise Appeal Branch)

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
NEW DELHI**

PRINCIPAL BENCH - COURT NO. 1

Excise Stay Application No. 2614 of 2007 in  
Excise Appeal No. 2937 of 2006

DATE OF HEARING : 29.01.2008  
DATE OF DECISION : 29.01.2008

**CCE, Jalandhar**

....

**Appellant**

(Rep. by Sh. C.S. Rajput, DR)

VERSUS

**M/s Dhillon Kool Drinks & Beverages Ltd.**

....

**Respondent**

(Rep by Sh. Sunil, Adv.)

**CORAM : HON'BLE MR. JUSTICE S.N. JHA, PRESIDENT  
HON'BLE MR. A.K. SRIVASTAVA, MEMBER (T)**

*F/* ORDER NO. 39/08-EX  
*Stay order No. 104/08-EX*

**PER JUSTICE S.N. JHA :**

A preliminary objection has been taken to the maintainability of this appeal on behalf of the respondent, M/s Dhillon Kool Drinks & Beverages Ltd. It is stated by the learned advocate that pursuant to the remand order of the Punjab & Haryana High Court dated 06.09.2007, the Commissioner (Appeals) has passed a de novo order on merits on 03.01.2008 and, therefore, the present appeal by the Revenue seeking to challenge the previous orders of the Commissioner (Appeals)

dated 16.08.2007 and the orders-in-original dated 28.06.2005 and 11.08.2005 has become infructuous. We find substance in the submission of the learned advocate that the previous orders have merged in the recent order of the Commissioner (Appeals) dated 03.01.2008 and if the Revenue is so advised, it is open to it to challenge the said order before this Tribunal, in accordance with law. With this clarification, the appeal is dismissed as infructuous.

(Dictated and pronounced in the open Court on the 29<sup>TH</sup> day of January, 2008)

**(JUSTICE S.N. JHA)**  
**(PRESIDENT)**

**(A.K. SRIVASTAVA)**  
**MEMBER (TECHNICAL)**