

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

Date 05/03/2008

Appeal No. E/891 /2007 -SM [BR]

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


To :  
KOHINOOR FOOTWEAR PVT. LTD.  
1. E/180-18, KAVI NAGAR IND. AREA, GHAZIABAD.  
2. SHRI. RAJESH CHHIBBER, ADVOCATE, FA-9, NEW  
KAVI NAGAR

KOHINOOR FOOTWEAR PVT. LTD.

C.C.E, GHAZIABAD


I am directed to transmit herewith a certified copy of Final order No. 388 /2008 -SM[BR] dated 30.1.2008  
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

Appellant  
Vs  
Respondent

  
Assistant Registrar  
(SM Appeal Branch)

**Copy to :**

1. Respondent  
C.C.E, GHAZIABAD  
C.G.O. COMPLEX-II, KAMLA NEHRU NAGAR,  
GHAZIABAD.
2. Adv. / Consult  
MR. RAJESH CHHIBBER  
FA/9, NEW KAVI NAGAR, GHAZIABAD
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)

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
COURT NO.II

E/Appeal No.891/2007-SM

(Arising out of order No.11/Comm/Gzb/07 dated 7.2.2007 passed by the  
Commissioner of Central Excise, Ghaziabad)

M/s Kohinoor Footwear Pvt Ltd  
Appellant  
(Rep. by Shri Rajesh Chhibber, Advocate)

Vs

CCE, Ghaziabad  
Respondent  
(Rep. by Shri A.K. Rastogi, DR)

Coram: Hon'ble Mr P.K. Das, Member(Judicial)

Date of Hearing: 30.1.2008

Final order No. 788/2008-SM(BR)

Per P.K. Das:

The appellants filed this appeal against rejection of remission application.

After hearing both the sides and on perusal of the record, it is seen that the Commissioner rejected the remission application on the ground that the claim of the applicant for the loss of finished goods could neither be verified by the State Fire Department nor by the departmental officers. It is further observed that the fire occurred in the factory on 19/20.12.2001 and details of fire were intimated to the department on 19.8.2002. The learned Counsel drew the attention of the Bench to the various correspondence with the department. It is particularly noticed that a show cause notice dated 12.12.2002 was issued by the Deputy Commissioner of Central Excise proposing demand of duty on the goods destroyed in fire. It is seen from the

said Notice that the appellant was asked to work out the quantum of loss occurred in the fire accident which was submitted on 26.12.2001 and Annexure A to the said show cause notice indicates the loss of Rs.26,945/-. Therefore, the finding of the Commissioner is contrary to the evidence. However, I find that the quantum of loss was informed to the department on 26.10.2001 as per the show cause notice dated 12.12.2002. The impugned order is set aside and the matter is remanded to the Commissioner to verify the loss of fire. Needless to say, the Commissioner shall provide opportunity of hearing to the appellant before deciding the matter. The appeal is decided by way of remand.

(Order dictated and pronounced in the open Court).

MPS\*

(P.K. Das)  
Member(Judicial)