

**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/1061/2006-1062/2006-SM[BR]

Date 04/04/2008

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

To :

1. M/S KUWER IND LTD
2. SHRI, J.B.AGGARWAL  
A-71-72, SECTOR-58, NOIDA

M/S KUWER IND LTD

CCE, NOIDA

Appellant

Vs

Respondent

I am directed to transmit herewith a certified copy of Final order No. 562 -563 /2008 -SM[BR] dated 28.2.2008  
passed by the Tribunal under Section 35-C(1) of Central Excises Act, 1944

  
Assistant Registrar

(SM Appeal Branch)

**Copy to :**

1. Respondent

CCE, NOIDA

B-123, SECTOR-V, NOIDA

2. Adv. / Consult

MR.S.D.GAUR

SB-108, SHASTRI 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)

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE  
TRIBUNAL, R.K. PURAM, W.B. NO.2, PRINCIPAL BENCH  
NEW DELHI, COURT NO. III**

**Excise Appeals Nos.1061-1062 of 2006-SM (BR)**

[Arising out of order in appeal No.134-135/NOIDA/05 dated 30.12.2005 passed by the Commissioner (Appeals), Central Excise, Noida]

**Date of Hearing/ Decision:28.2.2008**

**For approval and signature:**

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

- |                                                                                                                                          |   |                                                                                       |
|------------------------------------------------------------------------------------------------------------------------------------------|---|---------------------------------------------------------------------------------------|
| 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?                                                                    | : |                                                                                       |

M/s.Kuwer Industries Ltd.

...Appellants

[Rep. by Shri S.d. Gaur, Consultant ]

Vs.

CCE, Noida

....Respondent

[Rep. by Ms. Archana Pandey Mittal, Jt. CDR ]

**CORAM: Mr. P.K. Das, Member (Judicial)**

*Final* Order No. 562-563/08/03 Dated: 28.2.2008.

**Per P.K. Das:**

Heard both sides and perused the records.

2. It is seen from the order of the Commissioner (Appeals) that the adjudicating authority appropriated the amount of refund against another demand. The appellant pleaded before the Commissioner (Appeals) that the demand has been decided in their favour by the Tribunal on 29.9.2005 but they could not produce the copy of the decision of the Tribunal before the Commissioner (Appeals). Ld. Counsel drew the attention of the Bench to the Final Order No.832-833/05-EX dated 28.9.2005 of the Tribunal wherein, the appellant's appeals were allowed with consequential relief. So, the impugned orders are set aside and the matter is remanded back to the Commissioner (Appeals) to examine the order of the Tribunal and to decide the matter afresh after hearing the appellant. The appeal is allowed by way of remand.

Order dictated & pronounced in open court on 28.2.2008.

( P.K. Das )  
Member (Judicial)

Ckp.