

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

PRINCIPAL BENCH,  
COURT NO. IV

**CUSTOMS APPEAL NO. 637 OF 2011**

[Arising out of the Order-in-Original No. 09/Commr/HKC/2011 dated 29/07/2011 passed by Commissioner of Customs, New Delhi.]

**M/s Elgin Electronics,** .....Appellant  
**Through its Proprietor**  
**Shri Suresh Chand Gupta,**  
1683/2, J.H. Building, Bhagirath Palace,  
Delhi - 110 006.

**Versus**

**Commissioner of Customs,** ....Respondent  
New Customs House, Near I.G.I. Airport,  
New Delhi.

**AND  
CUSTOMS APPEAL NO. 638 OF 2011**

[Arising out of the Order-in-Original No. 09/Commr/HKC/2011 dated 29/07/2011 passed by Commissioner of Customs, New Delhi.]

**Shri Sumit Gupta, Manager,** .....Appellant  
**M/s Elgin Electronics,**  
1683/2, J.H. Building, Bhagirath Palace,  
Delhi - 110 006.

**Versus**

**Commissioner of Customs,** ....Respondent  
New Customs House, Near I.G.I. Airport,  
New Delhi.

**APPEARANCE:**

None for the appellant.  
Shri Rakesh Kumar, Authorized Representative for the  
Department

CORAM:  
**HON'BLE DR. MS. RACHNA GUPTA, MEMBER (JUDICIAL)**  
**HON'BLE SHRI P.V. SUBBA RAO, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 51726-51727/2025**

DATE OF HEARING : 22.09.2025.

DATE OF DECISION : \_\_.11.2025

**P.V. SUBBA RAO**

**M/s. Elgin Electronics<sup>1</sup>** and **Shri Sumit Gupta<sup>2</sup>** filed these two appeals to assail the order dated 4.8.2011 passed by the Commissioner of Customs (Preventive), New Delhi<sup>3</sup> in which the PA systems and parts seized by panchnamas dated 5.1.2010 collectively valued at Rs. 77,16,288/- were confiscated under sections 111 (a),(b), (d) and (l) of the Customs Act, 1962<sup>4</sup> but were allowed to be redeemed by Elgin on paying a fine of Rs. 20,00,000/- under section 125 of the Act and penalties of Rs.2,00,000/- each were imposed on the owner of Elgin Shri Suresh Chand Gupta and the Manager of Elgin Shri Sumit Gupta.

2. None appeared on behalf of the appellants. When the matter was listed on 19.2.2025, Shri Sanjay Singh advocate sought adjournment and it was adjourned to 21.4.2025 making it clear that no further adjournment would be granted. However, on 21.4.2025, none appeared for the appellant. Learned authorised representative for the Revenue sought time to prepare synopsis/compilation. Accordingly, it was adjourned to 29.7.2025. Today also none appeared for the appellant. Learned authorised representative for the Revenue submitted synopsis.

3. As per the judgment of the larger bench of Hon'ble Supreme Court in **Balaji Steel Rolling Mills** versus

- 
1. Elgin
  2. Sumit
  3. Commissioner
  4. Act

**Commissioner of Central Excise and Customs**<sup>5</sup>, if the party does not appear on the date of hearing, CESTAT should decide the matter on merits. We have accordingly heard learned authorised representative and perused the records. The facts which led to the issue of the impugned order are as follows.

4. Directorate of Revenue Intelligence<sup>6</sup> received intelligence that Elgin, a proprietorship firm of Shri Suresh Chand Gupta, was importing public address systems (PA Systems), sound systems for auditoriums, offices and conference rooms, multimedia and presentation systems with video/audio conferencing equipment without paying customs duty and also resorting to gross undervaluation and mis-declaration. Acting on this intelligence, officers of DRI searched various premises of Elgin and various other premises and recovered documents, computers and laptops. During searches, some imported goods were detained which were seized under three seizure memos dated 5.1.2010 on the belief that they were liable to confiscation under section 111 of the Customs Act.

5. After recording the statements of several individuals including Shri Suresh Chand Gupta and Shri Sumit Gupta, conducting investigation into the documents submitted by Elgin in support of their claim, a Show Cause Notice was issued.

6. After considering the replies in defence, giving opportunities of personal hearing and allowing cross examination

---

**5. 2014 (36) S.T.R. 1201 (S.C.)**

**6. DRI**

of the individuals, the Commissioner passed the impugned order. He observed that the goods had been seized under the belief that they were imported without paying customs duty and without the cover of valid duty paying documents. To the extent the documents submitted by the appellants in defence correlated to the goods, they were excluded from the SCN.

7. He further observed that the appellants' claim of local procurement from local suppliers were also verified with the bills and invoices submitted by them. Of the supposed suppliers, M/s. CINETEKK, Pondicherry confirmed that the bills submitted by the appellants were not issued by them. Inquiries into the credit bill no. 186 dated 12.6.2003 of M/s. A-One Electronics, Kamlanagar, New Delhi showed that no such firm existed at all and therefore the question of issuing invoice or bill did not arise at all. Enquiries with M/s Sun Infonet Pvt. Ltd., Naraina, New Delhi showed that the invoices produced by Elgin matched with the goods but it's Accounts Manager, Kapil Sood stated that they had supplied goods with MRP/RSP stickers whereas the goods seized from Elgin had no such MRP/RSP stickers.

8. On request of the appellants, the Commissioner allowed cross examination of all the above persons who confirmed the statements given by them.

9. The appellant had taken another plea that DRI had booked the case at the behest of one Shri R K Jain but this plea being without any basis, was dismissed by the Commissioner.

**Submissions in the appellants**

10. The appellants submitted as follows in the appeals:

- (i) The Commissioner had not appreciated the facts of the case and ignored the Bills of Entry submitted by the appellant showing licit import which were not proved to be false by the appellant.
- (ii) Simply because the goods were found without MRP stickers at the time of seizure, it does not prove that they were not legally imported.
- (iii) The department did not produce any evidence of to show that the goods were smuggled. The statements of Shri Sumit Gupta and Shri SC Gupta asserting legal import of goods cannot be brushed aside.
- (iv) The Revenue did not investigate to check if the statements made during the cross examination were true.
- (v) The Commissioner did not appreciate that the appellant had denied the goods being smuggled and asserted that the goods were bought and sold paying through cheques.
- (vi) The impugned order may be set aside and the appeals may be allowed.

**Submissions on behalf of Revenue**

11. Learned authorised representative for the Revenue vehemently supported the impugned order and submitted as follows:

- (i) The appellants could not provide any documents to show the legal import of the seized goods which, at the time of seizure were found to be of Shure brand/ JBL.
- (ii) The invoices submitted by the appellants in support of their contention that the goods were legally imported and were bought were verified and found to be fabricated, supposedly issued by a firm which did not even exist or did not correspond to the goods because the goods said to have been bought had MRP/RSP stickers whereas the goods that were seized had no such stickers.

- (iii) The Commissioner allowed cross-examination of all the persons whose statements were relied upon. The Commissioner did not allow cross-examination of the officers of DRI as they had not made any statements under section 108 of the Act.
- (iv) During cross-examination, nothing contrary to the statements by the witnesses emerged.
- (v) Confiscation of the goods under section 111 (a), (b), (d) and (l) of the Act and imposition of penalties of Rs. 2 lakhs each on Shri SC Gupta and Shri Sumit Gupta are therefore fair and proper.
- (vi) The impugned order may be upheld and both appeals may be dismissed.

### **Findings**

12. We have considered the submissions in the appeal and the submissions of the learned authorised representative for the Revenue and perused the records.

13. The facts are not in dispute. DRI, acting on specific intelligence, started investigation into the goods of foreign brands of Elgin. To the extent no documents to show licit import of the goods were produced, the goods were seized and the SCN was issued proposing their confiscation and imposition of penalties.

14. The appellant had submitted purported purchase invoices from three businesses- viz., CINETEEKK, Pondicherry, A-One electronics, Delhi and Sun Infonet, Delhi.

15. On verification, CINETEEKK existed in Pondicherry but Shri Saravanan of this firm, after verification, confirmed that the purported invoices were never issued by them. He also gave a statement to this effect under section 108 of the Act. The appellant cross-examined Shri Saravanan during adjudication

proceedings which also established that the purported invoices were never issued by CINETEKK.

16. When verified, it was found that A-One electronics which had purportedly issued invoices to the appellant did not exist at all. Therefore, the purported invoices were not accepted as proof of the legal import and purchase of the goods by the Commissioner.

17. The third set of invoices were purportedly issued by Sun Infonet of Delhi and Shri Kapil Sood of this firm gave a statement to the effect that the invoices were issued by them but the goods which they had sold had MRP/RSP stickers on them. The seized goods had no MRP/RSP stickers on them and therefore, the Commissioner did not believe the invoices pertained to the seized goods.

18. The appellant also sought cross examination of Shri Parnesh Gupta of M/s. Gupta Bros. whose statement was also relied upon in the SCN. The Commissioner also allowed cross-examination of Shri Parnesh Gupta.

19. Thus, the statements of the persons recorded under section 108 and their cross examination by the appellants categorically established that the invoices and other documents submitted by the appellant Elgin to show that the goods were legally imported into India and were bought locally by the appellant were not related to the seized goods.

20. It is for this reason that the Commissioner confiscated the seized goods under section 111 and imposed penalties under section 112 on Elgin and on Shri Sumit Gupta.

21. We find the order of the Commissioner fair and balanced and having been passed after following principles of natural justice including allowing cross examination of the witnesses who made statements. The cross-examination only buttressed the case of the department.

22. In view of the above, we find no reason to interfere with the impugned order which is accordingly upheld and both appeals are dismissed.

(Order pronounced in open court on \_\_/11/2025.)

**(DR. RACHNA GUPTA)**  
**MEMBER (JUDICIAL)**

**(P.V. SUBBA RAO)**  
**MEMBER (TECHNICAL)**