

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

PRINCIPAL BENCH,
COURT NO. I

CUSTOMS APPEAL NO. 569 OF 2010

[Arising out of the Order-in-Original No. 46/2010 dated 15/09/2010 passed by Commissioner of Customs, New Delhi.]

M/s Mehra FabricsAppellant
Through Authorized Representative
Shri Arun Kumar Gupta
S/o Shri Nirmal Gupta,
R/o 10/1, SUS Nagar,
Jalandhar City,
Punjab.

Versus

Commissioner of Customs,Respondent
ICD TKD,
New Delhi.

APPEARANCE:

None for the appellant.

Shri Rakesh Kumar, Authorized Representative for the
Department

CORAM:

HON'BLE JUSTICE MR. DILIP GUPTA, PRESIDENT
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 51694/2025

DATE OF HEARING : 28.07.2025

DATE OF DECISION: 07.11.2025

P.V. SUBBA RAO

This appeal was disposed of along with several appeals by way of remand by Final Order dated 29.6.2017. On appeal by the Revenue, High Court of Delhi by order dated 16.11.2022 in CUSAA-125/2019, remanded the matter to this Tribunal to decide it on merits.

2. None appeared on behalf of the appellant. Nobody has been appearing for the appellant on the past several dates when the matter was listed. Accordingly, we have heard learned authorised representative for the Revenue and perused the records.

3. The issue in this appeal falls in a very narrow compass. **M/s. Mehra Fabrics¹** filed this appeal to assail order-in-original No. 46/2010 dated 15.9.2010 passed by the Commissioner of Customs, Inland Container Depot, Tughlakabad² whereby he extended the time for issuing a show cause notice by six months in terms of the proviso to section 110(2) of the Customs Act, 1962³. The operative part of the Order is as follows:

“I extend the period for issuance of show cause notice by six months in terms of the proviso to section 110 (2) of the Customs Act, 1962 in respect of goods :-

- (a) Covered under Bill of Entry No. 2015125 dated 10.02.10 in respect container No. APHU 6007544 which had been seized on 17.03.10;
- (b) Covered under Bill of Lading APLU 051091367 dated 20.01.2010 in respect of container No. Gesu 5672907 which had been seized on 18.03.2010; and
- (c) Covered under Bill of Lading APLU 051127000 dated 05.02.2010 in respect of container No. FCIU 8818945 which had been seized on 18.03.2010”.

1. appellant
2. Commissioner
3. Act

4. The appellant had filed Bill of Entry 2015125 dated 10.2.2010 declaring the goods as 'Toilet Seats, Wash Basins'. It had also imported two other containers for which the Bills of Entry had yet to be filed by the Import General Manifest (IGM) declared the imported goods as Toilet Set.

5. Receiving intelligence that the goods were mis-declared in these three containers, they were examined under a panchnama and the containers had the declared goods only in the front half of the container and behind them were branded shoes of Adidas, Nike, Reebok, Puma brands, Lacoste, Polo, DNG, Caterpillar, Mens Sandals, Cosmetics such as Face wash of Lakme and Garnier brand eye liners, etc. Therefore, the goods were seized on 17.3.2010 and 18.3.2010, statements were recorded and the matter was investigated.

6. As per section 110, a SCN has to be issued within 6 months of seizure. The relevant portion of this section is as follows:

110. Seizure of goods, documents and things.—

(1) If the proper officer has reason to believe that any goods are liable to confiscation under this Act, he may seize such goods: Provided that where it is not practicable to seize any such goods, the proper officer may serve on the owner of the goods an order that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.

(2) Where any goods are seized under sub-section (1) and **no notice in respect thereof is given under clause (a) of section 124 within six months** of the

seizure of the goods, the **goods shall be returned** to the person from whose possession they were seized:

Provided that the Principal Commissioner of Customs or Commissioner of Customs may, for reasons to be recorded in writing, extend such period to a further period not exceeding six months and inform the person from whom such goods were seized before the expiry of the period so specified:

7. Since the investigations could not be completed within time, a show cause notice was issued by the Commissioner asking them to explain as to why the period should not be extended under the proviso to section 110(2).

8. After considering the submissions of the appellant and giving an opportunity of being heard, the Commissioner passed the impugned order extending the time for issuing the SCN for confiscation under section 124. The reasons given by the Commissioner for extending the period are reproduced below:

“17. I have carefully gone through the facts and available records of the case and defence reply of the noticee. The issue before me in the instant case is, as to whether it is a fit case for extension of time period for six more months for issuance of show cause notice in terms of the proviso to section 110 (2) of the Customs Act, 1962 or not.

18. I find herein that the investigations were necessitated, since the noticee at Sr. No. 1 & 2 of the show cause notice appears to have indulged in evasion of customs duty by way of mis-declaration and concealment of goods and violated the

various provisions of the Customs Act, 1962 with an intend to evade payment of duty. It also appears that they are indulging in fraudulent import. M/s APL India Pvt. Ltd. has not objected for extension of time for issuance of show cause notice.

19. From the investigations conducted so far it appears that the verifications are at a very crucial stage. The evidence on record strongly suggests the violation of various provisions of the Customs Act, 1962 and Foreign Trade (Development & Regulation) Act, 1992 by the said noticees. The extent of duty evaded can only be ascertained through detailed and complete investigations. The facts discussed hereinbefore warrant thorough investigation to arrive at the conclusion in the matter. This is of utmost importance and may take some more time. Further, I also find that several summons were issued to both the noticee, however, they have not appeared on any of the dates given in the summons after the release of Shri Arun Kumar Gupta on bail. Further enquiries regarding payment of foreign exchange, ownership of two containers where Bills of Entry not filed and amendment in Bills of Lading are incomplete due to avoidance of appearance. By doing so they are avoiding the investigation on one pretext or the other.
20. The submissions made at the time of personal hearing have been perused and same will be considered at the time of finalization of case subsequent to completion of investigations as the present show cause notice is restricted only in respect of the seized goods.
21. Accordingly, I find that in the interest of investigations, testimony of the noticee are very much required and thus the

time limit for issuance of show cause notice can be extended by six months in respect of goods seized on 17.03.2010, 18.03.2010 and 18.03.2010 respectively in terms of the proviso to section 110 (2) of the Customs Act, 1962.

9. The grounds on which the appeal assails the impugned order are as follows:

- (a) There is no tenable or plausible reason for extension of time under section 110 (2) of the Act;
- (b) The impugned order is bad in law as it is not based on proper appreciation of the facts and circumstances;
- (c) There was no material before the adjudicating authority for extension;
- (d) There was no fair play in adjudication in passing the impugned order;
- (e) The impugned order is arbitrary and illegal; and
- (f) In a judgment in the case of Charan Dass Malhotra (no citation given in the appeal), the Apex Court held that the adjudicating authority cannot extend time unless he is satisfied that there is sufficient cause for extension.

Findings

10. We find no force in the argument that principles of natural justice were violated since the Commissioner had not only served an SCN on the appellant proposing to extend the time but also recorded the submissions of the appellant in

paragraphs 15 and 16 of the impugned order and has also considered the submissions.

11. The Commissioner has also recorded reasons for extending the time for issuing the SCN. The chief of these is the fact that the appellant himself was not cooperating with the investigation and had not responded to several summons issued to him and has been avoiding and delaying investigation.

12. Further, the Commissioner also recorded that the several factors needed to be verified to examine the violations of the Act and also Foreign Trade (Development and Regulations) Act, 1992.

13. Having considered the stage of the investigation at that stage and the submissions of the appellant, the Commissioner had extended the time limit under the proviso to section 110 (2).

14. In view of the above, we find no infirmity in the impugned order. We accordingly, uphold it and dismiss the appeal.

(Order pronounced in open court on 07/11/2025.)

(JUSTICE DILIP GUPTA)
PRESIDENT

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