



CNR: KAHC010298552026

NC: 2026:KHC:36482-DB
CSTA No. 8 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 16TH DAY OF JULY, 2026
PRESENT
THE HON'BLE MR. JUSTICE S.G.PANDIT
AND
THE HON'BLE DR. JUSTICE K.MANMADHA RAO
CUSTOMS APPEAL NO. 8 OF 2026

BETWEEN:

THE COMMISSIONER OF CUSTOMS
AIRPORT AND AIR CARGO
COMMISSIONERATE
MENZIES BOBBA CARGO TERMINAL
DEVANAHALLI
BANGALORE-560 300.

...PETITIONER

(BY SRI. ARAVIND V CHAVAN, ADV.)

AND:

M/S. SUPERTON ELECTRONICS
PRIVATE LIMITED
12/1, 1ST FLOOR, CVR BUILDING
HOSUR ROAD, WILSON GARDEN
BANGALORE-560 027
REP. BY ITS MANAGING DIRECTOR.

...RESPONDENT

(BY SRI. VIPIN UPADHYAY, ADV.)

THIS APPEAL IS FILED UNDER SECTION 130 OF THE CUSTOMS
ACT 1962, PRAYING TO ALLOW THE APPEAL AND SET ASIDE THE
ORDERS PASSED BY THE CESTAT, BENGALURU IN FINAL ORDER
NO.21268/2025 DATED 22.07.2025 VIDE ANNEXURE-A.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

Digitally signed by
NANJUNDACHARI
Location: High
Court of Karnataka



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CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
AND
HON'BLE DR. JUSTICE K.MANMADHA RAO

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE S.G.PANDIT)

The present appeal filed by the Revenue under Section 130 of the Customs Act, 1962 is directed against the final order bearing No.FO/C/A/21268/2025-CU(DB) dated 22.07.2025 passed by the Customs, Excise and Service Tax Appellate Tribunal, Bengaluru (for short, 'CESTAT') whereunder the respondent/assessee's appeal is allowed and the impugned order passed by the Adjudicating Authority is set aside.

2. Heard learned counsel Sri.Aravind V. Chavan for appellant/Revenue and learned counsel Sri.Vipin Upadhyay for respondent/assessee.

3. The respondent/assessee i.e., M/s.Superton Electronics is engaged in import and trading of mobile phones. It had imported mobile phones under CTH



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85171290 across 15 Bills of Entry, paying full CVD, without availing concessional duty, as conditions were not met. However, it filed two refund claims for excess CVD paid and it was not considered. Against which, the respondent/assessee approached this Court in W.P.No.45551-54/2016 and this Court by order dated 20.09.2016 directed the authorities to consider the respondent's request. The authorities passed Order in Original Nos.1329/2016 rejecting the refund claims of the respondent/assessee. Against which, the respondent/assessee filed appeal before the Commissioner of Customs (Appeals). The Commissioner of Customs (Appeals) by order dated 30.09.2021 in OIA.No.424/2021 held that the respondent/assessee is entitled for refund. However, remanded the matter to verify invoices and to sanction refund only if unjust enrichment is disproved. Against which, the appeal was filed before the CESTAT. The CESTAT, Bengaluru under impugned order allowed the appeal of the assessee holding that certificate of the



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Chartered Accountant is acceptable and there is no reason not to accept the same to hold that the burden of duty has not been passed on to the customers. Questioning the said order of the CESTAT, appellants/Revenue is before this Court urging several grounds. However, during the course of hearing, learned counsel for the respondent has brought to the notice of this Court that in identical circumstances, this Court in Customs Appeal No.9/2024 dated 23.09.2025 has held that the certificate from the Chartered Accountant who certifies annual accounts of the importer certifying that the SAD has not been passed on by the importer to the buyer would fulfill the requirement and discharge the statutory presumption of unjust enrichment. Relevant paragraph 14 reads as follows:

"14. Section 28D of the Act imposes a rebuttable presumption against the assessee. However, there is no specific prescription for how the presumption can be rebutted. It appears that this area is taken care of in the aforementioned circulars. If Section 28D is read with the aforementioned three circulars, the production of a



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certificate from the Chartered Accountant who certifies the annual accounts of the importer to the effect that the burden of 4% SAD has not been passed on by the importer to the buyer would fulfill the requirement and discharge the statutory presumption of unjust enrichment. Except for the production of a certificate of the of the Chartered Accountant, no other criteria are contemplated in the circulars."

4. Respectfully following the decision dated 23.09.2025 in Customs Appeal No.9/2024, the present appeal also stands dismissed.

**Sd/-
(S.G.PANDIT)
JUDGE**

**Sd/-
(DR.K.MANMADHA RAO)
JUDGE**

NC
CT:bms
List No.: 1 Sl No.: 24