**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

1. **CUSAP-33-2025 (O&M)**
Date of decision: February 17, 2026

COMMISSIONER OF CUSTOMS …. APPELLANT

V/S

M/S ELVANCE OVERSEAS LLP … RESPONDENT

2. **CUSAP-34-2025 (O&M)**

COMMISSIONER OF CUSTOMS …. APPELLANT

V/S

M/S ELVANCE OVERSEAS LLP … RESPONDENT

3. **CUSAP-35-2025 (O&M)**

COMMISSIONER OF CUSTOMS …. APPELLANT

V/S

M/S ELVANCE OVERSEAS LLP … RESPONDENT

4. **CUSAP-36-2025 (O&M)**

COMMISSIONER OF CUSTOMS …. APPELLANT

V/S

M/S ELVANCE OVERSEAS LLP … RESPONDENT

5. **CUSAP-37-2025 (O&M)**

COMMISSIONER OF CUSTOMS …. APPELLANT

V/S

M/S ELVANCE OVERSEAS LLP … RESPONDENT

6. **CUSAP-40-2025 (O&M)**

COMMISSIONER OF CUSTOMS …. APPELLANT

V/S

M/S ELVANCE OVERSEAS LLP … RESPONDENT

7. **CUSAP-38-2025 (O&M)**

COMMISSIONER OF CUSTOMS …. APPELLANT

V/S

M/S ELVANCE OVERSEAS LLP … RESPONDENT

CORAM : HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE RAMESH CHANDER DIMRI

Present : Mr. Sourabh Goel, Senior Standing Counsel with
Ms. Geetika Sharma, Advocate for the appellant in all appeals.

Mr. Sumit Jain, Advocate for the respondent in all appeals.

****

<u>LISA GILL, J. (Oral)</u>

1. All the abovesaid appeals arise out of common order dated 25.06.2024 passed by The Customs Excise and Service Tax Appellate Tribunal (CESTAT), Chandigarh in Customs Appeal Nos. 60056 to 60061 of 2021. All the abovesaid appeals are taken up together for hearing and adjudication at request and with consent of learned counsel for parties.

2. Prayer in all these appeals is for setting aside order dated 25.06.2024 whereby appeals filed by the appellant-department have been dismissed as not maintainable in view of instructions dated 02.11.2023 issued by the Central Board of Indirect Taxes and Customs in respect to low tax effect

whereby the department is mandated not to prefer appeals in terms of Section 131BA of The Customs Act. There is a delay ranging from 72 days to 88 days in filing of all these appeals.

3. Learned counsel appearing for the respondent submits that present appeals are not maintainable before this Court as in similar matters pertaining to present respondents themselves, the department directly filed appeals before Hon'ble the Supreme Court in terms of Section 130E(b) of The Customs Act. Reference has been made to following matters before Hon'ble the Supreme Court wherein said appeals filed by Department have been dismissed on account of low tax effect:-

S. No.	Party Name	Diary No.	Appeal No.	Decision of Hon'ble Supreme Court
1.	M/s VSM Impex	18843/2025	9951-9976/2025	Appeal dismissed on low tax effect vide order dated 01.08.2025
2.	M/s Sedna Impex; M/s Elvance Overseas; M/s MKY Enterprises; M/s Vardhaman Sales Agency; M/s Namo Alloys	24936/2025	9942-9950/2025	Appeal dismissed on low tax effect vide order dated 01.08.2025
3.	M/s Aspen Online	43196/2025	11310/2025	Appeal dismissed vide order dated 01.09.2025 (in view of order dated 01.08.2025)

4. It is reiterated that said Civil Appeal Nos. 18843, 24936 and 43196 of 2025 have also been dismissed by Hon'ble the Supreme Court. Learned counsel for respondent submits that appellants, once having exercised the option of approaching Hon'ble the Supreme Court in identical matters is not at liberty to file present appeals before this High Court.

5. Learned counsel for appellants while not denying the abovesaid, submits that restoration applications are being filed by Department in abovesaid matters before Hon'ble the Supreme Court in view of communication dated 01.09.2025 from Ministry of Finance to Principal Commissioner, Directorate of Legal Affairs, Indirect Tax and Customs. It is affirmed and verified that issue involved for adjudication is the same in present appeals. It is submitted that liberty be afforded to appellant to avail appropriate remedy in accordance with law as may be available, in present matters.

6. Keeping in view the facts and circumstances as above, all the abovesaid appeals as well as application(s) seeking condonation of delay in filing these appeals are dismissed as not maintainable in the peculiar facts and circumstances, with liberty to appellant to avail remedy, if any/as maybe available to it in accordance with law.

7. There is no expression of opinion on the merits of the matter.

(LISA GILL)
JUDGE

(RAMESH CHANDER DIMRI)
JUDGE

17.02.2026
Anju/rts

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No