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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 4561 OF 2024

Karuna Sachin Deora : Petitioner

Versus

Union of India and ors. : Respondents

WITH
WRIT PETITION NO. 4622 OF 2024
WITH
INTERIM APPLICATION NO.3726 OF 2024
IN
WRIT PETITION NO.4622 OF 2024

Sachin Chandraprakash Deora : Petitioner

Versus

Union of India and ors. : Respondents

WITH
WRIT PETITION NO. 5051 OF 2024

M/s. Virosh Exports LLP & ors. : Petitioners

Versus

Union of India and ors. : Respondents

WITH
WRIT PETITION (L) NO. 24237 OF 2024
WITH
INTERIM APPLICATION (L) NO.34244 OF 2024
IN
WRIT PETITION (L) NO.24237 OF 2024

Sagar Bhanushali : Petitioner

Versus

Union of India and ors. : Respondents

WITH
WRIT PETITION NO. 1447 OF 2025

Vardh Exim LLP & Anr. : Petitioners
Versus
Union of India and ors. : Respondents

Mr. Chirag Shetty a/w Ms Ayushi Agarwal i/by Economic Law Practice, for the Petitioners/Applicants.
Mr Vijay H Kantharia , a/w Mr. Dhananjay Deshmukh for the Respondents in WP No.5051 of 2024.
Adv. M P Sharma, a/w Adv. Mamta Omle for the Respondents in WP No.1447 of 2025.

CORAM **M.S. Sonak &
Advait M. Sethna, JJ.**
DATED: **29 September 2025**

ORAL ORDER :- (*Per M. S. Sonak, J*)

1. Heard learned counsel for the parties
2. Learned counsel for the parties agree that the common order can dispose of all these Petitions and Interim Applications.
3. These matters are substantially covered by the decision of the Delhi High Court in the case of **M/s. Aims Retail Services Private Limited Vs Union of India & ors.**¹, therefore, we proceed to dispose of these Petitions. This is more so because in **Kisha Telelinks Pvt. Ltd & Anr Vs. The Union of India & ors.**, we had issued a Rule and granted interim relief, but given liberty to the parties to apply in case any orders are made by the Hon'ble Supreme Court in the Union's challenge

¹ 2025 (2) TMI 596

to the Delhi High Court decision in *Aims Retail Services Pvt. Ltd.* (supra).

4. In these Petitions, the Petitioners have challenged the show cause notices and sought leave to amend the Petitions to challenge the orders in the original made in the meanwhile, based upon the impugned clarification dated 25 September 2020 issued by the CBIC.

5. Accordingly, we grant the Petitioners leave to amend the Petitions to challenge the orders in original, where such orders have already been passed. Amendment to be carried out forthwith.

6. Rule in all these Petitions. The Rule is made returnable immediately with the consent of and at the request of the learned counsel for the parties.

7. The Petitioners have squarely challenged the impugned clarification dated 25 September 2020, based upon which the drawback already granted to the Petitioners was sought to be recovered. The show-cause notices and the orders in original are entirely based upon the impugned clarification dated 25 September 2020 issued by CBIC.

8. In the case of *Aims Retail Services Pvt. Ltd.* (supra), the Division Bench of the Delhi High Court struck down the clarification dated 25 September 2020. The show-cause notices, based on the same, were consequently struck down, as they were premised on the impugned clarification.

9. The Union of India challenged the Delhi High Court's decision in *Aims Retail Services Pvt. Ltd.* (supra) before the

Hon'ble Supreme Court. However, by order dated 18 July 2025, the Hon'ble Supreme Court dismissed the Special Leave Petitions by observing that the Hon'ble Supreme Court found no good reason to interfere with the common impugned order passed by the High Court.

10. Therefore, by following the decision of the Delhi High Court and noting that the Delhi High Court has already struck down the impugned clarification, we allow these Petitions, quash and set aside the impugned show cause notices and the impugned orders in original, but remand the matters to the respective adjudicating authorities to consider the Petitioners' drawback claims in accordance with law and in light of the striking down of the impugned clarification dated 25 September 2020.

11. Mr Kantharia did point out that the Petitioners have an alternate remedy of appeal against the orders in the original. He also pointed out that we have issued a Rule in the case of *Kisha Telelinks Pvt. Ltd.* (supra) and not disposed of the said Petition.

12. Normally, we do relegate the parties to avail themselves of the alternate remedy. However, in this case, we are not entirely sure whether the Appellate Authority will be able to strike down the CBIC clarification dated 25 September 2020, based on which the impugned orders in the original have been made. Secondly, since the impugned circular has already been struck down by the Delhi High Court and the Special Leave Petitions against it have also been dismissed, we do not think this is a fit case to relegate the Petitioners to avail of an alternate remedy.

13. In any event, we are only remanding the matter to the adjudicating authorities to decide the Petitioners' drawback claims in the backdrop of striking down of clarification dated 25 September 2020.

14. Insofar as our order in *Kisha Telelinks Pvt. Ltd.* (supra) is concerned, the same records that the Special Leave Petition against the Delhi High Court's decision in *Aims Retail Services Pvt. Ltd.* (supra) was pending or rather the said decision was in the process of being challenged. Our order of 09 June 2025 made in the said Petition had specifically granted the parties liberty to apply in case of any orders being made by the Hon'ble Supreme Court on this issue. Now that Special Leave Petitions have been dismissed, there is no point in issuing a Rule in these Petitions.

15. For all the above reasons, we make the Rule absolute to the extent indicated above. The impugned show cause notices and the impugned orders in the original are set aside, and the matters are remanded to the adjudicating authorities for deciding the Petitioners' drawback claims in accordance with law and on their own merits as expeditiously as possible, but after taking cognisance of the position that the impugned clarification dated 25 September 2020 stands struck down.

16. There shall be no order for costs. Interim Applications are also disposed of. All concerned parties must act upon the authenticated copy of this order.

(Advait M. Sethna, J)

(M.S. Sonak, J)