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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **CUSAA 73/2025**

M/S MICROSOFT CORPORATION INDIA PRIVATE. LIMITED
.....Appellant

Through: Mrs. Nisha Bagchi, Sr. Advocate with Ms. Pooja Sharma and Mr. Tarun Kumar Sobti, Advocates.

versus

COMMISSIONER OF CUSTOMS IMPORT)NEW DELHI
.....Respondent

Through: Mr. Gibran Naushad, Sr. Standing Counsel with Mr. Suraj Shekhar Singh and Mr. Harsh Singhal, Advocates.

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\+ **CUSAA 77/2025 & CM APPL.27166/2025**

M/S MICROSOFT CORPORATION INDIA PRIVATE LIMITED
.....Appellant

Through: Mrs. Nisha Bagchi, Sr. Advocate with Ms. Pooja Sharma and Mr. Tarun Kumar Sobti, Advocates.

versus

COMMISSIONER OF CUSTOMS (IMPORT), NEW DELHI
.....Respondent

Through: Mr. Gibran Naushad, Sr. Standing Counsel with Mr. Suraj Shekhar Singh and Mr. Harsh Singhal, Advocates.

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\+ **CUSAA 78/2025 & CM APPL.27180/2025**

M/S MICROSOFT CORPORATION INDIA PRIVATE. LIMITED
.....Appellant

Through: Mrs. Nisha Bagchi, Sr. Advocate with

Ms. Pooja Sharma and Mr. Tarun Kumar Sobti, Advocates.

versus

COMMISSIONER OF CUSTOMS IMPORT NEW DELHI .....Respondent

Through: Mr. Gibran Naushad, Sr. Standing Counsel with Mr. Suraj Shekhar Singh and Mr. Harsh Singhal, Advocates.

**CORAM:**
**JUSTICE PRATHIBA M. SINGH**
**JUSTICE RAJNEESH KUMAR GUPTA**

**O R D E R**

**% 23.05.2025**

1. This hearing has been done through hybrid mode.

**CM APPL. 25673/2025 in CUSAA 73/2025 (COD)**
**CM APPL. 27165/2025 in CUSAA 77/2025 (COD)**
**CM APPL. 27179/2025 in CUSAA 78/2025 (COD)**

2. These applications have been filed for condonation of delay in filing the appeals. For the reasons stated in the applications, delay in filing the appeals is condoned. Accordingly, the applications are disposed of.

**CUSAA 73/2025**
**CUSAA 77/2025 & CM APPL.27166/2025**
**CUSAA 78/2025 & CM APPL.27180/2025**

3. The present appeals have been filed by the Appellant under Section 130 of the Customs Act, 1962 seeking directions for restoration of the following Customs Appeals filed by the Petitioner before Customs Excise and Service Tax Appellate Tribunal ('CESTAT')

(i) ***Customs Appeal No. 52564/2015*** in **CUSAA 73/2025,**

(ii) ***Customs Appeal No. 52562/2015*** in **CUSAA 77/2025,**

(iii) ***Customs Appeal No. 53419/2015*** in **CUSAA 78/2025**.

4. The submission of Ms. Bagchi ld. Sr. counsel for the Petitioner is that there were a batch of matters which were decided by CESTAT pursuant to Show Cause Notices ('SCN') issued on 03rd March, 2011, 13th March, 2011, 03rd March, 2011 respectively. The said SCNs were issued by the Directorate of Revenue Intelligence ('DRI') Officials. These were adjudicated by the adjudicating authority and Orders-in-Original were passed on 24th April, 2015. The Petitioner had challenged the said Order-in-Original before CESTAT in the above said appeals which were decided *vide* order dated 30th June, 2017. In the said Appeals orders were passed by the CESTAT on the basis of the judgment rendered in ***Mangli Implex Limited v. Union of India 2016 (335) ELT 605 (Del.)*** by this Court which held DRI Officials were *'proper officers'* under to initiate proceedings under Customs Act, 1962.

5. However, the same question as to whether DRI Officials were *'proper officers* or not was pending before the Supreme Court. The same came to be decided in ***Canon India Pvt. Ltd. v. Commissioner of Customs, 2021 (18) SCC 563*** *(hereinafter 'Canon-I'),* which was thereafter reviewed in ***Review Petition (Civil) No. 400/2021*** titled ***'Commissioner of Customs v. M/s Canon India Private Limited',*** *(hereinafter, 'Canon-II')*. The relevant portion of Canon-II vide which DRI officials were found to be proper officers under Customs Act, 1962 is extracted below:

> ***"168.****In view of the aforesaid discussion, we conclude that: [...]*
> ***(vi) Subject to the observations made in this judgment, the officers of Directorate of Revenue Intelligence, Commissionerates of Customs (Preventive), Directorate General of Central Excise Intelligence and Commissionerates of Central Excise and other similarly situated officers are proper officers for the purposes of Section 28 and are competent to issue show cause notice thereunder.***

***Therefore, any challenge made to the maintainability of such show cause notices issued by this particular class of officers, on the ground of want of jurisdiction for not being the proper officer, which remain pending before various forums, shall now be dealt with in the following manner:***

*a. Where the show cause notices issued under Section 28 of the Act, 1962 have been challenged before the High Courts directly by way of a writ petition, the respective High Court shall dispose of such writ petitions in accordance with the observations made in this judgment and restore such notices for adjudication by the proper officer under Section 28.*

*b. Where the writ petitions have been disposed of by the respective High Court and appeals have been preferred against such orders which are pending before this Court, they shall be disposed of in accordance with this decision and the show cause notices impugned therein shall be restored for adjudication by the proper officer under Section 28.*

*c. Where the orders-in-original passed by the adjudicating authority under Section 28 have been challenged before the High Courts on the ground of maintainability due to lack of jurisdiction of the proper officer to issue show cause notices, the respective High Court shall grant eight weeks' time to the respective assessee to prefer appropriate appeal before the Customs Excise and Service Tax Appellate Tribunal (CESTAT).*

*d. Where the writ petitions have been disposed of by the High Court and appeals have been preferred against them which are pending before this Court, they shall be disposed of in accordance with this decision and this Court shall grant eight weeks' time to the respective assessee to prefer appropriate appeals before the CESTAT.*

***e. Where the orders of CESTAT have been challenged before this Court or the respective High Court on the ground of maintainability due to lack of jurisdiction of the proper officer to issue show cause notices, this Court or the respective High Court shall dispose of such appeals or writ petitions in accordance with the ruling in this judgment and restore such notices to the CESTAT for hearing the matter on merits.***

*f. Where appeals against the orders-in-original involving issues pertaining to the jurisdiction of the proper officer to issue show* *cause notices under Section 28 are pending before the CESTAT, they shall now be decided in accordance with the observations made in this decision. "*

6. It is also relevant to note that similar appeals of the Respondent-Revenue Department such as ***CUSAA 62/2025*** and ***CUSAA 63/2025*** have been remanded by this Court to the concerned adjudicating authority to be heard on merits. Likewise, since the matters would now have to be heard on merits even in the present case, all the three appeals filed by the Petitioner are restored to their original position before CESTAT. Details of the same are as under:

(i) ***Customs Appeal No. 52564/2015*** in **CUSAA 73/2025,**

(ii) ***Customs Appeal No. 52562/2015*** in **CUSAA 77/2025,**

(iii) ***Customs Appeal No. 53419/2015*** in **CUSAA 78/2025**.

7. Let the matters now be adjudicated on merits by CESTAT except on the issue already decided by the Supreme Court.

8. All the three appeals are disposed of in above terms. All the pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH, J.**

**RAJNEESH KUMAR GUPTA, J.**

**MAY 23, 2025/***MR/Ar.*