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

+ CM(M)-IPD 27/2025 & CM 158/2025 and CM 159/2025

PRINCIPAL COMMISSIONER OF CUSTOMS JAWAHARLAL
NEHRU CUSTOMS HOUSE AND ANR.Petitioners

Through: Mr. Aditya Singla, SSC, CBIC with
Mr. Ritwik Saha, Ms. Shreya Lamba,
Mr. Raghav Bakshi and Ms. Arya
Nair, Advs.

versus

M/S CROCS INC USARespondent

Through: None

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **17.09.2025**

1. This petition has been filed seeking setting aside of the impugned order dated 19.10.2024 passed by the District Judge (Commercial Courts), Patiala House Courts, New Delhi ['Commercial Court'] in CS(COMM) 58/2023 titled **M/s Crocs Inc. USA v. M/s. Unicon Overseas and Others** ['commercial suit'] and all proceedings emanating therefrom.

2. In addition, the Petitioners also seeks quashing of the proceedings in Misc DJ/3625/2024 pending before the learned District Judge, Patiala House Courts (Commercial Courts), New Delhi.

3. Learned counsel for the Petitioners state that no adverse orders are prayed for against the Respondent herein and therefore, the matter can be proceeded with.

3.1 He states that the commercial suit was filed before the Commercial



Court in the year 2018 by the Respondent herein against an importer – M/s Unicorn Overseas (defendant no. 1) for illegal imports of the counterfeit products. He states that the Petitioners herein were impleaded as proforma defendant nos. 2 and 3 in the said suit. He states that in pursuance to an interim injunction granted by the Commercial Court on 25.07.2018, the Customs Department/Petitioners herein were restrained from releasing the goods of defendant no. 1 in the said suit. He states that the Customs Department is in compliance with the said injunction order.

4. He submits that the upon a settlement arrived at between the plaintiff and contesting defendant no. 1, the said Commercial Court was decreed vide consent decree dated 07.06.2019 and furthermore, the Customs Department was directed to ensure that the seized goods were destroyed.

5. He states that however, the suit proceedings remained pending before the Commercial Court on 07.06.2019 only to supervise the destruction of the seized goods.

6. He states that after the Commercial Court had passed the consent decree on 07.06.2019, the said Court had become *functus officio* and the commercial suit could not have remained pending, unless the Court was entertaining the execution proceedings.

7. He states that the impugned order passed on 19.10.2024 and the subsequent proceedings before the Commercial Court are without jurisdiction. He states that in similar matters, the Co-ordinate Bench of this Court had quashed similar orders passed against Customs Department by the District Court after passing of the decree. In this regard, he refers to the judgment passed by the Co-ordinate Bench of this Court in **Principal Commissioner of Customs Jawaharlal Nehru Customs House and**



Another v. Loreal SA¹.

8. He states that notwithstanding the above, he would like to apprise the High Court that vide order dated 23.04.2025, the competent authority has already passed directions for the destruction of the confiscated goods which formed the subject matter of the commercial suit before the Commercial Court. He has handed over a copy of the order dated 23.04.2025, wherein paragraph 21 reads as under:

“21. In view of the above discussions and findings, I pass the following order:

ORDER

- i. I order to confiscate the goods covered under Bill of Entry No. 6572227 dated 28.05.2018 having assessable value of Rs. 21,27,605/- (Rupees Twenty-One Lakhs Twenty-Seven Thousand Six Hundred and Five Only) liable for confiscation under Section 111 (d) of the Customs Act, 1962.
- ii. I order for destruction of the impugned goods imported under Bill of Entry No. 6572227 dated 28.05.2018 in terms of Rule 11 of the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007.
- iii. I impose a penalty of **Rs. 2,00,000/- (Rupees Two Lakhs Only)** on the importer M/s Unicon Overseas under section 112(a)(i) of the Customs Act, 1962.
- iv. I impose a penalty of **Rs. 2,00,000/- (Rupees Two Lakhs Only)** on the importer M/s Unicon Overseas under section 114AA of the Customs Act, 1962.”

9. He states that the aforesaid order having been passed, the ministerial act of destruction of the said goods will take place once a No Objection Certificate [‘NOC’] is received from Maharashtra Pollution Control Board.

10. This Court has heard the learned counsel for the Petitioners and perused the record.

¹ 2025 SCC OnLine Del 3456



11. The commercial suit was filed by the Respondent herein against an importer – M/s Unicorn Overseas (defendant no. 1 therein) for seizure of the counterfeit products. The information pertaining to import of the counterfeit products was forwarded by the Petitioner department to the Respondent herein. The Petitioner department was acting in accordance with applicable law² in this regard.

In the said commercial suit, the Respondent herein/plaintiff therein had sought a relief of restraint against the release of the import consignment of the counterfeit products to defendant no. 1 and sought the relief of destruction of the counterfeit products at prayer clause (d) of the plaint.

12. The suit itself was decreed against the contesting defendant no. 1 on 07.06.2019 after recording its consent as well as full and final settlement of the disputes between the plaintiff and defendant no. 1 therein.

13. The Commercial Court vide order dated 07.06.2019 recorded the consent of defendant no. 1 that the consignment of counterfeit products may be destroyed by the Petitioner department. The suit thereafter remained pending against the Petitioner department, which was arrayed as defendant nos. 2 and 3 in the suit proceedings for the relief of destruction of the consignment of the counterfeit products.

The suit remained pending from 2019 to 2024 before the Commercial Court only to secure the destruction of the consignment of the counterfeit products. Several directions were passed by the Commercial Court from time to time to secure the said compliance. The Commercial Court vide judgment dated 19.10.2024 issued a decree against the Petitioner department restraining it to release the counterfeit products to defendant no. 1 and to

² Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007



destroy the seized goods in accordance with law.

14. With the passing of the decree, the suit proceedings came to an end on 19.10.2024. However, on the same date, by a separate order the Commercial Court issued a show cause notice to the Petitioner department for its non-compliance of the directions for confiscation and destruction and further directed registration of Miscellaneous File no. 3625/2024.

15. The Petitioners contend that the proceedings which have been initiated by the Commercial Court after passing the decree on 19.10.2024 are without any jurisdiction as the Commercial Court had become *functus officio*. The Petitioners have relied upon the judgment of the Co-ordinate Bench of this Court in **Principal Commissioner of Customs Jawaharlal Nehru Customs House and Another v. Loreal SA** (supra).

16. This Court takes note that the competent authority has on 23.04.2025 has already passed the order for confiscation and destruction of seized goods. Therefore, the direction passed to the Petitioner department in terms of the decree dated 19.10.2024 has been complied with. The submission of the Petitioners that the goods will be destroyed after receiving the NOC from the concerned Pollution Control Board is taken on record. The order dated 23.04.2025 passed by the competent authority is also taken on record.

17. The Respondent will be at liberty to follow up with the Petitioner department for compliance of the order dated 23.04.2025.

18. In these facts, the decree dated 19.10.2024 itself has been complied with and therefore no further proceedings remained pending before the Commercial Court.

19. In these aforesaid facts and circumstances, this petition stands allowed.



20. Accordingly, the impugned order dated 19.10.2024 passed by the District Judge (Commercial Courts), Patiala House Courts, New Delhi in CS(COMM) 58/2023 titled **M/s. Crocs Inc. USA v. M/s Unicon Overseas and Others** and the proceedings emanating therefrom are set aside. Furthermore, the proceedings in Misc/DJ/3625/2024 pending before the concerned Commercial Court, Patiala House, Court, New Delhi is directed to be closed.

21. The present petition along with pending applications, if any, stands disposed of.

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 17, 2025/msh/MG