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

Date of decision: 21st January, 2026

Uploaded on: 27th January, 2026

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W.P.(C) 15894/2025

MS KANUSHI ENTERPRISES

.....Petitioner

Through: Mr. D. Abhinav Rao, Mr. Rohit Gupta
and Mr. Abhisek Das, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr Vivek Sharma, SPC for UOI
(9810418275)
Mr. Vishal Chadha, SSC
(9810641379).
Mr. Shekhar Anand, Adv.
(8809510307)

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W.P.(C) 18370/2025

MS AIMS MIGITAL TECHNOVATIONS PVT.
LTD.

.....Petitioner

Through: Mr. D. Abhinav Rao, Mr. Rohit Gupta
and Mr. Abhisek Das, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Vishal Chadha, SSC
Mr. Shekhar Anand, Adv
Mr. Kshitij Chhabra, SPC for UOI
(9873300070)

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W.P.(C) 18371/2025

MS AIMS RETAIL SERVICES PRIVATE
LIMITED

.....Petitioner

Through: Mr. D. Abhinav Rao, Mr. Rohit Gupta
and Mr. Abhisek Das, Advs.



versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Sahaj Garg, Adv. for UoI
9953498791
Mr. Vishal Chadha, SSC
Mr. Shekhar Anand, Adv.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present three writ petitions have been filed by the Petitioners seeking implementation of the judgment dated 13th February, 2025, (*hereinafter, 'the judgment'*) by which the Court had directed the Respondents to process the duty drawbacks to the Petitioners along with interest and release the same. The operative portion of the judgment reads as under:

“79. In the opinion of this Court, the unlocking/activating of the mobile phones as per the procedures adopted by the Petitioners herein is mere ‘Configuration’ of the product to make it usable and does not constitute “taken into use” under proviso to Rule 3 of the Duty Drawback Rules. The Clarifications go beyond Section 75 of the Act and the Duty Drawback Rules since the interpretation sought to be given by CBIC is that unlocking/activation of mobile phones constitutes “taken into use”. The said interpretation which is contained in the Clarifications is not sustainable. Accordingly, the Clarifications issued by the CBIC are quashed.

80. The respective impugned SCNs and the



Orders-in-Original passed by the Respondents, relying on the Clarifications, which take a contrary position to the findings of this Court, are also quashed.

81. *The Court has, however, not examined each of the cases as to whether duty drawbacks are liable to be granted or not to the Petitioner therein. The individual cases shall be processed by the Customs Department for drawbacks in accordance with law.*

82. ***It is made clear that if the drawbacks are processed and granted to the respective Petitioners for the relevant period as per law, within a period of three months, no interest would be liable to be paid under Section 75A of the Act. If, however, the same is not effected within a period of three months, upon the expiry of three months interest would be liable to be paid by the Customs Department on the eligible duty drawbacks to the respective Petitioner in accordance with law.***

83. *The non-grant of interest for the previous period is in view of the fact that there was ambiguity as to the legal position in respect of eligibility of unlocked/activate mobile phones for grant of duty drawbacks.*

84. *These petitions are allowed in above terms. All pending applications, if any, are also disposed of."*

3. In terms of the aforesaid judgment, the interest on the duty drawback amounts was not awarded for the previous period and the Court had directed release of the duty drawback amounts within three months.

4. Thereafter, the Customs Department had challenged the judgment



before the Supreme Court in **SLP 30758/2025** in **Union of India & Ors v. M/s AIMS Retail Services Private Limited**. *Vide* order dated 18th July, 2025, the Supreme Court had dismissed the SLP in following terms:

- “1. Delay condoned.*
- 2. Having heard the learned counsel appearing for the petitioners and having gone through the materials on record, we find no good reason to interfere with the common impugned order passed by the High Court.*
- 3. The Special Leave Petitions are, accordingly, dismissed.*
- 4. Pending applications, if any, also stand disposed of.”*

5. Despite the aforesaid order of the Supreme Court, the Customs Department has not given effect to the judgment passed by this Court.

6. The three months period, even if computed from the date of dismissal of the SLP which is dated 18th July, 2025, has already expired. Accordingly, in **W.P.(C) 15894/2025** *vide* order dated 30th October, 2025, this Court had observed as under:

“9. In the opinion of this Court, there can be no reason as to why the drawback amounts have been held back even after the dismissal of the SLP (C) No. 30758/2025.

10. Under such circumstances, the Court is inclined to grant interest to the Petitioner, even for the previous period.

11. It is observed that the present writ petition was first listed before the Court on 15th October, 2025. Despite the same, ld. counsel for the Custom Department submits that she has not received any instructions in this matter.

12. Under such circumstances, the responsible official shall remain present in the Court, on the next date of hearing, alongwith proper instructions as to why the drawback amount has not been released till date.



13. The payment of statutory interest shall be considered on the next date of hearing.”

7. On 3rd December, 2025, a short affidavit was filed by the Customs Department, which is deposed by Mr. Shekhar Anand, Assistant Commissioner, Drawback, ACC Exports. In the said affidavit, it is stated as under:

“3. That aggrieved by the said judgment dated 13.02.2025, the Department had preferred SLP Diary No 30758/2025 titled Union of India & Ors. v. M/s AIIMS Retail Service Pvt. Ltd. before the Hon'ble Supreme Court, which was dismissed on 18.07.2025.

4. That thereafter, on examination of the matter at the appropriate level, the competent authority has taken a considered decision to file a Review Petition before the Hon'ble Supreme Court seeking review of the Order dated 18.07.2025 passed in SLP (C) Diary No. 30758/2025.

5. That the draft Review Petition has been finalised and approved, and the matter is at the final stage of filing before the Hon'ble Supreme Court. The only formality presently remaining is generation of the challan towards payment of court fees.

6. That the requisite payment towards court fees has already been made, and the Court Fee challan is now pending generation on the online system. The challan is likely to be generated within the next 24-48 hours, immediately upon which the Review Petition shall be lodged/ filed before the Hon'ble Supreme Court without any further delay.”

8. On the said date, i.e. 3rd December, 2025, it was also submitted that the review petition against the order dated 18th July, 2025 in **SLP 30758/2025** was in the process of being filed in the Supreme Court on the same day. The



Court had then observed as under:

“10. Mr. Chadha, ld. SSC has appeared along with the concerned official today, and submits that the review petition is being lodged in the Supreme Court today itself.

11. In the opinion of this Court, the time period for filing the review petition has already lapsed.

12. There can be no justifiable cause for not giving effect to the judgment passed, even after the SLP has been dismissed.

13. Moreover, the filing of the review petition would by itself not mean that the judgment has been stayed, even when the SLP has been dismissed.

14. The Court does not find any valid ground to simply adjourn the matter. However, since the two writ petitions i.e., W.P.(C) 18370/2025 and W.P.(C) 18371/2025 are listed today for the first time, let the computation of the entire amount payable along with interest, in terms of the judgment dated 13th February, 2025 be placed on record by the parties, in all three matters, by the next date of hearing.

15. Mr. Shekhar Anand, Assistant Commissioner, Drawback, ACC Exports shall remain present in Court on the next date of hearing.”

9. Thereafter, on 15th December, 2025, the Court was informed that the review petition has been filed in the Supreme Court against the order dated 18th July, 2025 in **SLP 30758/2025** but the same is yet to be listed. This Court, on the said date had, accordingly, adjourned the matter and directed the computation of the amount payable to the Petitioners to be filed by both the parties.

10. Even today, at the outset, upon being queried, it is submitted that the review petition has not been listed before the Supreme Court.

11. The computation, as sought by the Court on the last date of hearing, on



behalf of both the parties has been placed on record for each of the matters.

12. Both the parties have also exchanged copies of their respective computation.

13. Mr. Chaddha, Id. Counsel for the Customs Department again prays that the matter be adjourned today, as an application has been moved before the Supreme Court for an open Court hearing of the review petition.

14. In the opinion of this Court, the main judgment passed by this Court in the writ petition is dated 13th February, 2025. **SLP 30758/2025** filed against the said judgment, has been dismissed on 18th July, 2025.

15. No review has been listed by the Department before the Supreme Court till date in respect of the order of the Supreme Court dated 18th July, 2025.

16. Under these circumstances, this Court does not find it justified that the Department is not paying the amount in terms of the judgment dated 13th February, 2025 to the Petitioners.

17. In light of all the facts stated above, the Petitioners may, accordingly, appear before the Department on 9th February, 2026, and the amounts may be finalised between the parties on the basis of computation filed by both parties before this Court. The amount determined shall then be released to the Petitioners by 28th February, 2026.

18. Needless to add, payment of these amounts shall remain subject to the outcome of the review petition before the Supreme Court, if any, filed by the Department.

19. If the amounts are not paid by the Department by 28th February, 2026, stringent actions will be liable to be taken and the Petitioners will be at liberty to revive the present petitions.



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20. The petitions, along with pending applications, are disposed of in the aforesaid terms.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

JANUARY 21, 2026

kk/ss

(corrected and released on : 27th January, 2026)