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

Date of Decision: 21st November, 2025
Uploaded on: 24th November, 2025

\+ **W.P.(C) 3542/2025**

TECHSYNC .....Petitioner

Through: Ms. Piyushi Garg, Mr. Ananay Chopra, Mr. Ajay Kr Yadav, Mr. Chandravijay Sharma, Mr. Hardik Saxena & Mr. Rajat Yadav, Advs.

versus

THE SUPERINTENDENT OF CUSTOMS SIIB ACC IMPORTS AND ORS .....Respondents

Through: Mr. Akshay Amritanshu, SSC with Ms. Drishti Rawal, Mr. Mayur Goyal & Mr. Sarthak Srivastava, Advs.

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\+ **W.P.(C) 15448/2025**

M/S. DEBANJAN IMPEX .....Petitioner

Through: Ms. Piyushi Garg, Mr. Ananay Chopra, Mr. Ajay Kr Yadav, Mr. Chandravijay Sharma, Mr. Hardik Saxena & Mr. Rajat Yadav, Advs.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr. Akshay Amritanshu, SSC with Ms. Drishti Rawal, Mr. Mayur Goyal & Mr. Sarthak Srivastava, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

Prathiba M. Singh, J.(ORAL)

1. This hearing has been done through hybrid mode.

REVIEW PET. 586/2025

REVIEW PET. 568/2025

2. The present review petitions have been filed by the Respondents under Order XLVII Rule 1 read with Section 114 and Section 151 of the Code of Civil Procedure, 1908 seeking review of the order dated 30th October, 2025.

3. *Vide* order dated 30th October, 2025, the Court had directed provisional release of the Petitioners' imported goods. In addition, Central Board of Indirect Taxes and Customs *(hereinafter 'CBIC')* has been directed to conduct an inter-ministerial consultation in respect of the uniform policy of permitting import of such products which are declared as body massagers or sex toys, so that the said policy can be uniformly applied.

4. The stand taken by the Customs Department, in the review petitions is that the imported products by the Petitioners would require a license/certificate by the Drug Controller General of India *(hereinafter 'DCGI')*. In addition, the Petitioner has failed to provide the Extended Producer Responsibility Registration Certificate *(hereinafter, 'EPR Certificate')* under the Battery Waste Management Rules, 2022, which is required since certain products were found to be battery operated.

5. On behalf of the Petitioners, the following submissions have been made:

(i) Firstly, these arguments were raised by the Customs Department even when the order dated 30th October, 2025 was passed. Thus, there is no ground for a review.

(ii) Secondly, insofar as the DCGI approval is concerned, ld. Counsel for the Petitioners submits that, in this regard, the *Central Drugs Standard Control Organisation (Medical Devices Division)* Medical Devices *Frequently Asked Questions*, Question 51 *(hereinafter, 'FAQs')* clearly states as follows:

> *"51.Whether the massagers intended for soothing or wellness purpose are regulated under Medical Devices Rules, 2017?*
>
> *If the massager is intended for soothing or general wellness purpose and not for any therapeutic purpose, then it does not come under the regulation. However, if it is intended for the purpose like therapeutic, alleviation of disease or disorder, etc. are regulated under the provisions of Medical Devices Rules, 2017."*

(iii) Thirdly, It is submitted that the Petitioners can apply for the EPR Certificate even after the release of goods. In this regard, the *Public Notice: 46/2023* dated 25th May, 2023 issued by the Commissioner of Customs *(hereinafter, 'Public Notice: 46/2023')* states that application for EPR certificate can also be filed even after the goods are released.

6. The Court has heard both the parties. A perusal of the FAQs would show that, insofar as massagers are concerned, they do not require any approval under the Medical Device Rules, 2017 as they are not being used for therapeutic or alleviation of disease. They are only for wellness and soothing purposes.

7. In addition, insofar as EPR certificate is concerned, the *Public Notice: 46/2023* shows that the EPR certificate applications can also be filed even

after the goods are released. One of the Petitioners has in fact filed such an application. The FAQs and the Public notice have been clearly concealed from the Court by the Customs Department.

8. Furthermore, in order dated 30th October, 2025, it has been clearly and categorically recorded that similar consignments of the Petitioners as also of third-parties, have already been released, without any objection being raised by the Customs Department. This has been recorded in paragraph 9 of the order dated 30th October, 2025 in ***W.P. (C)15448/2025*** which reads as under:

> *"9. It is also argued that products similar to the subject import products are readily available on various e-commerce websites within India. Hence, since there is no prohibition on sale of the same within India, the Customs Department cannot arbitrarily prohibit import of the same. The ld. Counsel for the Petitioner has also submitted that the Customs Department has cleared similar goods imported by other companies, however, the Petitioner's products have been selectively seized."*

9. This has also been recorded in paragraph 9 of the order dated 30th October, 2025 in ***W.P.(C) 3542/2025*** which reads as under:

> *"9.Ld. Counsel for the Petitioner had, thereafter, objected to the classification of the imported goods as prohibited goods. She had directed the attention of the Court to identical products of M/s. Reckitt Benckiser India Pvt. Ltd. having been permitted to be imported. The relevant document has been annexed as part of the rejoinder."*

10. On the last date of hearing, pointed queries were also put during the course of arguments to ld. Counsels for Respondents, as to whether similar products of other companies, including Reckitt Benckiser, have been

stopped or not, to which, clearly, the answer was that they were permitted to import.

11. In fact, the plea regarding import of similar products being permitted by the Customs Department has been recorded in the writ petitions in the following terms:

(i) In ***W.P. (C)15448/2025:***

"Y.

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That further, the said goods are also being imported by other importers at IGI Delhi Air Cargo itself and are classified under 90191020 and are being regularly cleared. That the Petitioner had also provided the adjudicating authority with the details of such similarly placed importers whose goods were being assessed and cleared in the normal course. ***For instance, Reckitt Benckiser (Durex brand): Cleared a consignment of Vibrator Rings in April, 2025 under the same HS Code. That Sassy Thing (Huha Care Pvt. Ltd.) imported over 3,600 personal massagers in Jan-Mar 2025 (BoE 29 Jan, 12 Mar, 22 Feb 2025).*** *That therefore, the non-clearance of the Petitioner's goods was clearly a violation of Section 19(1)(g) of the Constitution of India."*

(ii) In ***W.P.(C) 3542/2025***:

" 2.(ii)

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The Petitioner submits that similar goods are being imported at other ports by various Importers, cleared for home consumption, without any objections being *raised by the Customs Department."*

12. However, there was no satisfactory answer given by the Respondents in the counter affidavit dated 24th April, 2025 as well.

13. In these overall circumstances, the review of the order dated 30th October, 2025 completely lacks merit and the Customs Department is clearly harassing the Petitioners for no reason.

14. Let the application for EPR Certificate, if not filed, be filed by the Petitioner in terms of the *Public Notice: 46/2023*. Subject to the same, the provisional release of the imported goods shall be effected within two working days.

15. The court is clearly of the view that the Petitioners are being harassed unnecessarily, when clearly the earlier consignments of the Petitioners were cleared with objection and the consignments of various third parties were also cleared. Accordingly, the review petitions are dismissed subject to cost of Rs.25,000/- in each of the petitions to be paid to the Petitioners by the Customs Department. The cost is liable to be deducted from the salary of Mr. Jainendra Jain, Assistant Commissioner of Customs.

16. The review petitions are dismissed in these terms. List for compliance on 9th December, 2025.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

NOVEMBER 21, 2025/*pd/sm*