**(2009) 11 AHC CK 0058**

**In the Allahabad High Court**

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| Commissioner of Central Excise | | APPELLANT |
| | Vs | |
| Amitdeep Motors | | RESPONDENT |

**Date of Decision :** 24-11-2009

**Acts Referred:**
Central Excises and Salt Act, 1944 — Section 35G
Finance Act, 1994 — Section 65(25), 69

**Citation :** (2010) 17 STR 514

**Hon'ble Judges :** Subhash Chandra Nigam, J;Prakash Krishna, J

**Bench :** Division Bench

**Final Decision :** Dismissed

## Judgement

1. The present appeal has been filed u/s 35-G of Central Excise Act against the order dated 21-5-2009 in Appeal No. 34/ST/All/2007 2009 (16) S.T.R. 168 The facts of the case may be noticed in brief.

2. M/s. Amitdeep Motors are authorized dealer of M/s. Maruti Udyog Ltd. Gurgaon, Haryana and are registered as Authorized Service Station with the Central Excise & Service Tax department u/s 69 of the Finance Act 1994. M/s. Amitdeep Motors in the case of sale of vehicle to Govt. Agencies received commission from M/s. Maruti Udyog Ltd. for sourcing orders for them to the Govt. Agencies and also for receiving the vehicles from them and delivering the same to the Govt. Agencies. The above service was sought to be taxed by the department and according to him it falls under the category of "Clearing and Forwarding Agent" services. The matter ultimately reached to the Customs, Excise & Service Tax Appellate Tribunal, New Delhi. The Tribunal by the order under appeal has held that the respondent herein does not fall in the category of "Clearing and Forwarding Agent".

3. In the memo of appeal, the following questions of law has been sought to be raised:

Whether services being provided by an agent e.g. arrangement of all documentary requirements from the customers for principal, liaison with customers for timely delivery, delivery of vehicle to the consignees, sending of Provisional Receipt & Inspection Notes from consignee to the principal & arrangement of way bill or entry permits required for the dispatch of vehicle etc. are covered in the term of C&F Operations and the agent providing inter alia above services is covered with the in the meaning of C&F Agent denied in Section 65(25) of the Finance Act, 1994?

4. Heard the learned Senior Standing Counsel for the Department. He submits that in view of taxable service as defined in clause''j'' of Section 65(105) of Finance Act 1994, the respondent-assessee is a "Clearing and Forwarding Agent".

5. We have considered the aforesaid submissions of the learned Senior Standing Counsel, but it is difficult to agree with him.

6. The respondent is engaged in the business of selling cars. The respondent is authorized dealers of Maruti Vehicle. The main work of the respondent is to sell the cars and if, in that connection the respondent has done something, it cannot be said that the respondent is "Clearing and Forwarding Agent" within the aforesaid provisions.

7. In view of above, we are of the opinion that no substantial question of law is involved in the appeal.

8. The appeal is dismissed summarily.