(2015) 05 DEL CK 0351

In the Delhi High Court

Case No : CEAC No. 18 of 2015 and C.M. Appeal Nos. 8190 and 8191 of 2015

Commissioner of Central Excise APPELLANT

Vs

Haldiram India Pvt. Ltd. RESPONDENT

Date of Decision : 05-05-2015

Acts Referred:
Constitution of India, 1950 — Article 226

Citation : (2015) 322 ELT 196

Hon'ble Judges : S. Ravindra Bhat, J;R.K. Gauba, J

Bench : Division Bench

Advocate : Satish Kumar, Senior Standing Counsel, for the Appellant; Shekhar Vyas and Arun Pathak, Advocates for the Respondent

Judgement

1. The Revenue challenges an order of the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) whereby it directed extension of the interim order granted in respect of the respondent-assessee. It is brought to the notice of this Court at the outset that in a similar situation, where an identically phrased amendment to the Income Tax Act, 1961, denying the power and jurisdiction to extend the interim order beyond 365 days was involved, the Court in Commissioner of Income Tax-II Vs. M/s. Maruti Suzuki (India) Limited, (2014) 6 AD 183 : (2014) 266 CTR 337 : (2014) 305 ELT 199 : (2014) 362 ITR 215 : (2014) 35 STR 284 held that the Tribunal is bound by the provision and that the power to extend such interim orders is dependent on the exercise of discretion by the High Court under Article 226 of the Constitution. In these circumstances, the impugned order cannot be sustained. However, the appellant Revenue is restrained from taking any coercive action against the respondent/assessee for four weeks to enable the latter to move this Court under Article 226 of the Constitution of India, if so advised. The appeal is disposed of in the above terms.