

(2016) 05 DEL CK 0210

In the Delhi High Court

Case No : CUSAA No. 16 of 2016 & CM No. 20759 of 2016

Commissioner of Customs (Air Cargo Export)

APPELLANT

Vs

Hotel Excelsior Ltd.

RESPONDENT

Date of Decision : 27-05-2016

Acts Referred:

Citation : (2016) 336 ELT 595

Hon'ble Judges : S. Muralidhar and Vibhu Bakhru, JJ.

Bench : Division Bench

Advocate : Satish Kumar, SSC, for the Appellant

Final Decision : Dismissed

Judgement

1. The Customs Department is in appeal against the order dated 17th November, 2015 [2016 (336) E.L.T. 116 (Tribunal)] passed by the Customs Excise & Service Tax Appellate Tribunal (?CESTAT?).
2. The short question that arose for consideration in the said appeal from the Order-in-Original dated 27th August, 2010 passed by the Commissioner of Customs was whether the respondent violated the conditions attached to the import of cars for use in the hotel business. According to the Department the respondent failed to demonstrate that the cars were in fact used for transporting the foreign guests of the hotel.
3. As rightly pointed out by the CESTAT, the Department was unable to show any stipulation in any notification issued by the Central Board of Excise and Customs or any other notification specifically requiring the imported cars to be used only for transporting foreign guests of the hotel. Even before this Court, learned counsel for the Department was unable to show any such stipulation. In the circumstances, the Court is unable to disagree with the reasoning of the CESTAT that as long as foreign exchange is earned by the hotel and the imported cars are being used, there cannot said to be a violation of any statutory requirement.

4. No substantial question of law arises for consideration. The appeal and the application are dismissed.