IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CUSTOMS APPEAL NO.53 OF 2025

M/s.Orange Pet Nutrition Private Limited .. Appellant

Versus

Union of India and Ors. .. Respondents

Mr. Sandeep Sachdeva a/w Ms.Samyuktha Pentyala i/b M/s.Dserve Legal Advocates, for the Appellant

Mr. Ram Ochani a/w Ms.Sangeeta Yadav, Advocate for the Respondents

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CORAM: B. P. COLABAWALLA & FIRDOSH P. POONIWALLA, JJ.
RESERVED ON: JUNE 11, 2026
PRONOUNCED ON: JULY 22, 2026

JUDGEMENT (PER FIRDOSH P. POONIWALLA, J.) :

1. The present Appeal is filed under Section 28KA of the Customs Act 1962, challenging the Advance Ruling Order dated 4th July 2025 passed by the Customs Authority for Advance Ruling, Mumbai **(CAAR).**

FACTS

2. On 30th January 2025, the Appellant filed an Advance Ruling Application before the CAAR and sought an advance ruling on the question "*Whether the products imported in bulk bags weighing 20 kgs. by the Appellant are classifiable under CTH 2309.90.10 of the First Schedule to the Customs Tariff Act, 1975?"*. In the said Advance Ruling Application, the Appellant had *inter alia* made submissions supporting its interpretation that the subject goods are not retail packs and would not be classifiable under CTH 2309 1000 as *"Dog and cat food, put up for retail sale."*

3. Respondent No.3 submitted a Reply dated 28th March 2025 in response to the said Advance Ruling Application and contended that the said goods are retail packs and the correct classification would be under CTH 2309 1000 as *"Dog and cat food, put up for retail sale."*

4. The Appellant also filed its Rejoinder dated 10th June 2025 rebutting the contents of the Reply and submitted that the said goods are in the nature of wholesale packages, and, therefore, the same are not classifiable under CTH 2309 1000.

5. By an Order dated 4th July 2025, the CAAR held that the imported nutritionally balanced dog and cat feed in 20 kg. bags is a retail pack and classifiable under CTH 2309 1000 as *"Dog or cat food, put up for retail sale,"* attracting Basic Customs Duty at the rate of 20%. Being aggrieved by the said Order of the CAAR, the Appellant has filed the present Appeal.

QUESTIONS OF LAW

6. According to the Appellant, the following questions of law arise for consideration and determination of this Court:

> *"a) Whether on the facts and circumstances of the case and under the law, the Ld. CAAR has erred in holding that the imported nutritionally balanced pet feed in 20 kg bags is a retail pack without appreciating that the packaging at the time of import is materially different from the package of the goods sold to ultimate consumer post importation?*
>
> *b) Whether on the facts and circumstances of the case and under the law, the Ld. CAAR has erred in interpreting the coverage of expression 'put up for retail sale' under CTH 2309 10 00 without appreciating that such entry would only cover the imported goods meant for direct sale to ultimate consumer "as it is" without any further repacking?*
>
> *c) Whether on the facts and circumstances of the case and under the law, the Ld. CAAR has erred in holding that the bulk pack is a retail pack and classifiable under CTH 23091000 without appreciating that post importation, such bulk package is repacked into smaller quantities to make them marketable as retail pack to the ultimate consumers?*

d) Whether on the facts and circumstances of the case and under the law, the Ld. CAAR has erred in holding that since the bulk pack as imported is having the weight of 20 kg and therefore in terms of the provisions of Rule 3 of Legal Metrology (Packaged Commodities) Rules, 2011, the same would qualify as a retail pack, without appreciating the fact that such provisions are applicable only to the packages intended for retail sale?

e) Whether on the facts and circumstances of the case and under the law, the Ld. CAAR has erred in classifying the subject goods as retail sale pack based on the ultimate intended end use of the goods so imported post undertaking repacking operations while completely ignoring the fact that the package so imported was neither intended as a retail sale pack to be sold to the ultimate consumer nor sold the same to the ultimate customer "as it is"?

f) Whether on the facts and circumstances of the case and under the law, the Ld. CAAR has erred in classifying the subject goods as retail sale pack based on the ultimate intended end use of the goods so imported post undertaking repacking operations while completely ignoring the settled legal position that the classification of the goods should be determined based on the form and condition of the goods in which it is imported?

g) Whether the Ld. CAAR has erred in not following its own advance ruling passed in the case of Royal Canin [Ruling No.CAAR/Mum/ARC/35/2024 dated 05.03.2024] wherein on identical facts and circumstances, it was held that the imported pet foods in bulk bags weighing 15 kg to 700 kg are not for retail sale and would not be classifiable under CTH 23091000?

h) Whether on the facts and circumstances of the case and under the law, the Jurisdictional Customs Commissionerate can take a diagonally opposite stand as taken in the case of Royal Canin (supra) where the Respondents did not object the classification of identical products under CTH 2309 90 90, and now suggesting that the subject goods merit classification under CTH 23091000?

i) Whether on the facts and circumstances of the case and under the law, the subject goods rightly merit classification under CTH 23099010 'Compounded animal feed' attracting Basic Customs Duty @15%?"

SUBMISSIONS OF THE PARTIES

7. Mr. Sandeep Sachdeva, the learned counsel appearing on behalf of the Appellant, made submissions challenging the said Order dated 4th July 2025. Mr. Sachdeva submitted that the Appellant, in the course of its business, imports nutritionally balanced dog and cat feed from overseas suppliers in bulk bags weighing 20 kg.

8. Mr. Sachdeva submitted that, after import and customs clearance, the said goods are brought to the Appellant's warehouse where they are re-packed into smaller units as per the market requirement and demand such as packets weighing from 70 gms. to 12 kg. which are suitable for retail sale. The retail packets are further sold under the Appellant's brand name 'Fidele+'. Such retail packs contain various necessary customer related information including dosages, brand name, 'net weight', MRP etc. Mr. Sachdeva submitted that, for undertaking repacking operations, the Appellant is duly registered as a "packer" under the Legal Metrology Regulations. Mr. Sachdeva submitted that the core issue arising in the present Appeal is whether the imported dog and cat feed in 20 kg. bulk bags can be regarded as goods *"put up for retail sale"* within the meaning of CTH 2309 1000.

9. Mr. Sachdeva submitted that it is an undisputed position that the subject goods are imported in 20 kg bulk bags, and after customs clearance, are repacked by the Appellant into smaller packs of varying quantities before being supplied to the consumers.

10. Mr. Sachdeva submitted that the Appellant has placed sufficient documentary material on record demonstrating that the imported bulk bags are not sold to the ultimate consumer "as imported" and are subjected to repacking operations prior to retail sale. Mr. Sachdeva submitted that the Revenue has also not placed on record any contrary evidence to this effect.

11. Mr. Sachdeva further submitted that the expression *"put up for retail sale"* in CTH 2309 1000 is a condition prescribed by the legislature for classification of dog or cat food under the said entry. Therefore, the expression cannot be rendered superfluous or interpreted in a manner that ignores the form or packaging of the goods at the time of importation.

12. Mr. Sachdeva further submitted that Rule 3(b) of the General Rules of Interpretation as contained in the HSN Explanatory Notes has specifically dealt with the term "Retail Sale" and has clearly stated that 'Retail Sale' does not include sale of goods which are intended to be re-sold after further repacking. Hence, the goods which are made subject to further repacking cannot be said to be in the category of 'Retail Packs'.

13. Mr. Sachdeva submitted that even as per the HSN Explanatory Notes the term 'Retail Sale' does not include goods which are repacked further. He submitted that since, in the present case, the imported bulk packages are made subject to further repacking, the said imported bulk packages cannot be said to be retail packs as the sale of such packages by the Appellant cannot be said to be a retail sale in the light of the HSN Explanatory Notes.

14. Mr. Sachdeva submitted that the Customs Tariff read with the HSN Explanatory Notes contains several tariff entries wherein the legislature has consciously used expressions such as *"put up for retail sale"* or *"whether or not put up for retail sale"*. Mr. Sachdeva submitted that the use of such expressions across numerous Tariff headings, including HSN Explanatory Notes, clearly demonstrates that the manner of packing, presentation and marketability of the goods assumes significance for classification purposes. If the intention of the legislature is to classify the goods solely on the basis of their nature or end-use, there was no necessity to incorporate such expressions in the tariff.

15. Mr. Sachdeva referred to various tariff entries in the Customs Tariff and corresponding HSN Explanatory Notes wherein the expressions related to retail sale such as *"put up for retail sale"* and *"for retail packages"* etc, have been specifically used. Mr. Sachdeva submitted that the very presence of the aforesaid expressions in different tariff headings establishes that the package in which the goods are presented at the time of import is the most important consideration for classification.

16. Mr. Sachdeva further submitted that it is a settled principle that imported goods are required to be classified in the condition in which they are presented for assessment at the time of importation. The classification of goods must therefore be determined on the basis of the nature, description, packing, presentation and characteristics of the goods at the time of import. In support of this submission, Mr. Sachdeva relied upon the Judgement of the Hon'ble Supreme Court in the case of **Collector of Customs v. Sony India, (2008) 231 ELT 385 (S.C.).**

17. Mr. Sachdeva submitted that, in the present case, it is an undisputed position that the imported goods are received in 20 kg. bulk bags and are thereafter repacked into smaller consumer packs prior to being supplied in the retail market. Thus, the imported bags are not sold to the ultimate consumer in the same form and condition in which they are imported.

18. Mr. Sachdeva submitted that neither the Customs Department nor the CAAR has adduced any documentary evidence that the goods imported in the bulk pack are sold as such (without undertaking any repacking) in the domestic market. Mr. Sachdeva submitted that, in the absence of any such evidence, the conclusion drawn by CAAR is incorrect.

19. Mr. Sachdeva submitted that in the present proceedings, the Appellant had specifically relied upon the Advance Ruling rendered by the CAAR in the case of **Royal Canin India Pvt.Ltd. 2024 (390) ELT 530.** Mr. Sachdeva submitted that the said ruling dealt with the import of pet food in bulk packs which were subsequently repacked into smaller packs before being supplied to retail consumers. The issue before the CAAR was whether such imported goods could be regarded as goods *"put up for retail sale"* at the time of importation.

20. Mr. Sachdeva submitted that the factual matrix in **Royal Canin (Supra)** and in the present case is substantially identical. Despite the same, CAAR has arrived at a conclusion which is directly contrary to the view adopted by it in **Royal Canin (Supra)**. While in **Royal Canin (Supra)**, the

CAAR accepted that pet food imported in bulk packs and subjected to repacking after importation could not be regarded as goods "*put up for retail sale*", in the present case, the very same expression has been interpreted in a completely opposite manner to hold that the subject goods merit classification under CTH 2309 1000.

21. Mr. Sachdeva submitted that although an Advance Ruling is binding only upon the Applicant who sought the ruling and the jurisdictional customs authorities concerned in such proceedings, the existence of an earlier ruling rendered by the very same authority on an identical issue and substantially similar facts cannot be completely ignored while deciding a subsequent application. Mr. Sachdeva submitted that in the present case, the issue involved, whether pet food imported in bulk packs and repacked after importation can be regarded as goods *"put up for retail sale"*, had already been examined by the CAAR in **Royal Canin (Supra)**. Despite the same, the CAAR has adopted a different interpretation of the very same tariff and has arrived at a contrary conclusion.

22. Mr. Sachdeva further submitted that in the present case, even the Department has taken a diagonally opposite stand than what was taken in the case of **Royal Canin (Supra)**. In the case of **Royal Canin (Supra)**, the Department has not disputed the classification before CAAR, whereas in an identical fact scenario in the present case, the Department has suggested that the goods in question will be classified under CTH 2309 1000. Mr. Sachdeva submitted that the Customs Department cannot take two contradictory positions when the facts involved are similar.

23. Mr. Sachdeva further referred to the guidelines under the Legal Metrology (Packaged Commodities) Rules, 2011, and submitted that all the information which is required by the said Rules is not found on the bulk package. He submitted that, to give an illustration, the consumer care details are not found in the bulk package.

24. Further, in support of his submissions, Mr. Sachdeva relied upon the Judgement of the Hon'ble Supreme Court in **Jayanti Food Processing (P) Ltd. vs. Commissioner of Central Excise, Rajasthan [2007] 10 STT 375** and the decision of the CESTAT, New Delhi in **M/s.Midas Fertchem Impex Pvt. Ltd. Versus Principal Commissioner of Customs, Air Cargo Complex (Import), New Delhi 2023 (1) TMI 998**.

25. In conclusion, Mr. Sachdeva submitted that for all the aforesaid reasons, the impugned Order dated 4th July 2025 of the CAAR is required to be set aside.

26. On the other hand, Mr. Ram Ochani, the learned counsel appearing on behalf of the Revenue took us through various paragraphs of the impugned Order and submitted that the impugned Order is correct in law and requires no interference. Mr. Ochani also submitted that the judgements relied upon by the Appellant were distinguishable on facts. Mr. Ochani submitted that, for all these reasons, the present Appeal ought to be dismissed.

ANALYSIS AND FINDINGS

27. The Appellant proposes to import nutritionally complete dry pet food in 20 kg. bags, tailored to the specific needs of dogs and cats based on their age, breed, and size. The products comprise of dehydrated chicken, rice, maize, peas, beet pulp, coconut oil, and other essential nutrients. These products are fully formulated and ready-to-feed, requiring no further processing or dilution. While acknowledging that these goods were previously classified under CTH 2309 1000, the Appellant now seeks re-classification under CTH 2309 9010, arguing that the 20 kg. bulk packages, lacking MRP and other retail declarations, do not satisfy the requirement of being *"put up for retail sale"* and instead qualify as *"compounded animal feed"*. The relevant entries in the Custom Tariff read as under:

Tariff Item		*Description of goods*	*Unit*	*Rate of duty*	
				Std.	*Prefnl.Areas*
(1)	*-*	*(2)*	*(3)*	*(4)*	*(5)*
2309	-	*Preparations of a kind used in animal feeding*	-	-	-
2309 1000	-	*Dog or cat food, put up for retail sale*	*kg.*	[7]*[20%]*	-
2309 90	-	*Other :*	-	-	-
2309 9010	-	*Compounded animal feed*	*kg.*	[8]*[15%]*	-

28. In support of its submissions, the Appellant relies on the HSN Explanatory Notes to Heading 2309, the Legal Metrology (Packaged Commodities) Rules, 2011, particularly Rule 2(k) and Rule 6(1), and a ruling by the the CAAR in the case of **Royal Canin (Supra).** It is the case of the Appellant that the absence of consumer declarations such as MRP and the repackaging of the goods into smaller units post-import indicate that the product does not qualify as a retail package at the time of import.

29. However, an examination of the facts and the law gives a contrary picture. The Customs Tariff Act, 1975, read with the General Rules for Interpretation (GIR) and HSN Explanatory Notes, requires classification based on the objective, characteristics and presentation of goods at the time of import. Heading 2309 of Chapter 23 covers "Preparations of a kind used in animal feeding," and subheading 2309 1000 specifically includes *"Dog or cat food, put up for retail sale."* The term *"put up for retail sale"* necessitates an assessment of whether the goods are in a condition suitable for direct sale to the final consumer at the time of import, which includes analysis of packaging, labelling, presentation and being practically feasible.

30. In terms of Rule 3(a) of the Legal Metrology (Packaged Commodities) Rules, 2011, retail labelling requirements do not apply to packages containing more than 25 kilograms or 25 litres. As the subject goods are packed in 20 kg. bags, they do not qualify for the exemption under Rule 3(a) and are consequently mandated to comply with the declaration requirements under Rule 6(1) of the Rules. In the present case, the subject goods imported in 20 kg. bags clearly fall within the purview of these legal requirements.

31. In accordance with General Interpretative Rule 1 (GIR 1) of the Customs Tariff, classification is to be determined based on the terms of the headings and any relative Section or Chapter Notes. In the present case, the relevant heading is 2309, which covers "Preparations of a kind used in animal feeding." There are no restrictive notes that would exclude pet food from this heading; on the contrary, the notes support its inclusion. The goods in question-nutritionally balanced pet food clearly fall within the ambit of this heading.

32. Once the appropriate four-digit heading is determined, General Interpretative Rule 6 (GIR 6) governs classification at the subheading and tariff item levels. GIR 6 provides that classification must be made by comparing subheadings at the same hierarchical level and that the principles of GIRs 1 to 5 apply mutatis mutandis. Under Heading 2309, the relevant subheadings for comparison are 2309 10 and 2309 90. At the eight-digit level, the competing tariff items are 2309 1000 (dog or cat food, put up for retail sale) and 23099010 (compounded animal feed).

33. The Appellant has shown to the Court the product labels on the 20 kg. pack, which discloses detailed consumer-facing information such as composition, analytical constituents, feeding guidelines, instructions for use, batch number, expiry date, and the names and addresses of the manufacturer and importer. The said product label reads as under:

PUPPY SMALL & MEDIUM BREED 28/18 *NET QTY 20KG – BULK PACKAGING*			
Composition :	*Dehydrated chicken protein, maize, white rice, peas, chicken fat, hydrolyzed chicken protein, dried beet pulp, flax seed, minerals, salmon oil, dried brewer's yeast, dried chicory (a natural source of FOS and inulin), MOS & beta glucans, coconut oil, dried turmeric, dried basil, dried ginger.*		
Analytical constituents		***Analytical constituents***	
Crude Protein	*28%*	*Additives*	*(Per kg)*
Crude Fat	*18%*	*Vitamin A*	*15.0000 IU*
Crude Fibre	*3.5% Max*	*Vitamin D3*	*1.500 IU*
Inorganic Matter	*7.0% Max*	*Vitamin E*	*100 mg*
Moisture	*9.0%*	***Trace Elements***	

Calcium	*1.0%*	*Iron*	*50.0mg*
Phosphorous	*0.8%*	*Copper*	*10.0mg*
		Zinc	*60.0mg*
Instructions for Use	*Keep the product in a dry and cool place and be sure the food bag is properly closed after each feeding. The feed has an 18 months shelf life. Give the extruded pellets dry, and ensure that fresh water is available for your pet.*		
Manufactured By	*See print on packaging*	***Batch No. Expiry date***	*See print on packaging*
Imported & Marketed By			
Orange Pet Nutrition *Gat No. 47, Opp Holy High School, Next to BASF, 412216 Pune, Maharashtra, India*			

34. The aforesaid features clearly satisfy the criteria for classification under Subheading 230910 - specifically that the goods are nutritionally complete, packaged for retail consumption and carry essential consumer information.

35. GIR 1 requires classification to be determined according to the terms of the headings and relevant legal notes. The goods clearly fall under Heading 2309 as they are preparations of a kind used in animal feeding. GIR 6 further mandates that classification at subheading levels must apply the same interpretative principles as GIR 1 and be confined to comparison of subheadings at the same level. Between 23091000 and 23099010, the former is both product-specific (dog and cat food) and packaging (put up for retail sale), whereas the latter is a residual category intended for bulk animal feed such as cattle or poultry feed, typically lacking retail-oriented presentation.

36. The Appellant's submission that classification under the Customs Tariff must be based solely on the physical form and condition of the goods at the time of import, without consideration of their intended use, presents an incomplete interpretation of the legal framework governing tariff classification. While it is correct that, in principle, classification is to be determined on the basis of the goods in the condition as imported, this does not preclude a contextual examination of the packaging, labelling, and presentation, especially in cases where the tariff heading itself contains terms such as *"put up for retail sale,"* which inherently involve an assessment of intended purpose and presentation.

37. Classification under CTH 2309 1000 specifically depends on whether the goods are *"put up for retail sale",* a phrase that has been consistently interpreted as requiring an analysis of not only the packaging size but also the labelling, consumer-facing information, and intended market. Therefore, where the product is packaged in a form that includes these details, then regardless of whether MRP is printed, the objective indicators of retail packaging are clearly present

38. Furthermore, the Appellant's own submission reveals that the goods are fully formulated dry pet food intended for direct feeding to dogs and cats without any requirement for further processing. This strongly suggests that the product, even in 20 kg. packs, is retail-ready and not a raw or intermediate input. In our view, it is incorrect to suggest that only goods bearing an MRP label or those in small-sized packs can be regarded as *"put up for retail sale."*

39. The Legal Metrology (Packaged Commodities) Rules, 2011, under Rule 2(k) and Rule 6(1), define and prescribe the characteristics of retail packages, and any package not exceeding 25 kg is presumed to be for retail sale, unless otherwise proven. The Appellant has not produced any statutory exemption or factual evidence showing that the 20 kg packs are legally precluded from being sold to consumers in the same form.

40. Moreover, contextual intent, such as whether the goods are meant for direct consumer use, is a relevant and permissible consideration for classification under headings that incorporate such qualifying terms. In this regard, the Appellant's claim that customs has relied on "post-import use" mischaracterizes the argument. The classification is not based on what the importer intends to do after clearance, but rather on whether the goods, in their imported form size, labelling and completeness are objectively suited for retail sale The very existence of detailed product labels containing nutritional information, feeding instructions, batch numbers, expiry dates, and manufacturer/importer details, as in the facts of the Appellant, establish that the goods are intended and suitable for retail sale.

41. Further, it can be seen that the label marked on the package itself reads as follows:

> "Keep the product in a dry and cool place and be sure the food bag is properly closed after each feeding. The feed has an 18-month shelf life...".

42. This declaration unequivocally establishes that the package is capable of functioning as a "Retail Pack," as it is suitable for direct sale and use without the necessity of repacking into smaller units, while retaining its declared shelf life of 18 months. In view thereof, the absence of an MRP on the package does not, by itself, preclude it from being regarded as a retail pack. The Appellant's contention that the package cannot be treated as a retail pack merely due to the absence of an MRP is devoid of merit.

43. We are of the view that the Appellant’s attempt to exclude classification under CTH 2309. 10.00 by narrowly interpreting the phrase *"put up for retail sale"* as requiring an MRP or smaller packaging lacks statutory support. In our view, the proper approach consistent with General Interpretative Rules 1 and 6, read with the HSN Explanatory Notes and the Legal Metrology Rules, require that the goods be classified under Tariff Item 2309 1000 given their packaging, completeness, and presentation as ready-to-consume pet food suitable for direct sale to the end consumer.

44. The 20 kg packs imported by the Appellant are fully formulated, ready-to-feed pet food, bearing consumer-facing declarations such as nutritional composition, feeding instructions, expiry date, batch number, and manufacturer/importer details. These objective features clearly indicate goods *"put up for retail sale"*. The absence of MRP does not detract from this status, especially as the packs fall below the 25 kg exemption threshold under Rule 3(a) of the Legal Metrology (Packaged Commodities) Rules, 2011, and comply with Rule 6(1) labelling requirements.

45. Therefore, we find that the Appellant's 20 kg. packs meet both legal and factual criteria for classification under CTH 2309 1000. They are complete, consumer-ready pet food bearing detailed declarations, and fall within the statutory scope of *"put up for retail sale"*. In our view, classification under 2309 9010, a residual entry for bulk feed, would be both factually inaccurate and legally unsustainable.

46. For all the foregoing reasons, we find that the correct classification of the imported nutritionally balanced dog and cat feed in 20 kg. bags is under CTH 2309 1000 - *"Dog or cat food, put up for retail sale,"* attracting Basic Customs Duty at the applicable rate.

47. In view of our aforesaid findings, we do not see any reason for interfering with the Advance Ruling Order dated 4th July 2025 passed by the CAAR.

48. This, now only leaves us to deal with the Judgements relied upon by Mr. Sachdeva on behalf of the Appellants. The first judgement that Mr. Sachdeva has relied upon is the decision of the CAAR in **Royal Canin (Supra).** The said decision is distinguishable on facts. **Royal Canin (Supra)** was a case where the CAAR was dealing with bulk bags weighing from 15 kgs. to 700 kgs. The bulk bags did not have the requisite labelling and information on the package. Further, the CAAR came to the conclusion that they would fall under CTH 2309 9010 based on a concession made by the jurisdictional commissionerate. In our view, for all the aforesaid reasons, the decision in **Royal Canin (Supra)** does not take the case of the Appellant any further.

49. As far as the decision in **M/s.Midas Fertchem Impex Pvt. Ltd. (Supra)** of the CESTAT, New Delhi is concerned, the same is factually distinguishable as it involves fertilizers lacking consumer declarations. Further, as far as relevance to the present case is concerned, this decision only holds that all packages below 25 kgs. are not necessarily retail packages. The same does not take the case of the Appellant any further as it is not our finding that the Appellant's 20 kgs. pack is a retail pack only because it is below 25 kgs.

50. As far as the judgment of the Hon'ble Supreme Court in **Jayanti Food Processing (P) Ltd. (Supra)** is concerned, the same is also clearly distinguishable. The said Judgement is under Excise law. Further, paragraph 13 of the said Judgement shows that the assessee was not directly selling the package to the consumer but in fact was supplying the package to the intermediary for being sold to the hotel industry. Therefore, this Judgement also does not help the Appellant.

51. For all the aforesaid reasons, this Appeal does not give rise to any substantial question of law and is liable to be dismissed.

ORDER

52. In light of the aforesaid discussions, and for the aforesaid reasons, the following Orders are passed:

a. The Appeal is dismissed.

b. In the facts and circumstances of the case, there will be no Order as to costs.

53. This Order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this Order.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**