$~54

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

\# **CNR No. DLHC011107912025**

\+ SERTA 33/2026, CM APPL. 76309/2026, CM APPL. 76310/2026, CM APPL. 76311/2026
PRINCIPAL COMMISSIONER CGST AND CX DELHI (SOUTH)

.....Appellant

Through: Mr. Anurag Ojha, SSC with Mr. Dipak Raj, Mr. Aditya Chaudhary, Mr. Ashish Chaudhary, Advs.

versus

M/S AIR INDIA LTD .....Respondent

Through: Mr. Yogendra Aladak, Mr. Yatharth Tripathi, Advs.

CORAM:
HON'BLE MR. JUSTICE AVNEESH JHINGAN
HON'BLE MS. JUSTICE SHAIL JAIN

O R D E R

% 03.11.2026

1. The present appeal has been filed against the order dated 23.06.2025 (hereinafter 'the impugned order') passed by the Customs, Excise and Service Tax Appellate Tribunal (for short, the Tribunal).

2. Learned counsel for the respondent raises a preliminary objection as to the maintainability of this appeal in view of Section 35G and 35L (2) of the Central Excise Act, 1944 (hereinafter the Act, 1944).

3. The dispute in the appeal pertains to the services provided by computer reservation system companies to Air India Ltd., their taxability under the specific taxable category and the consequent leviability of service

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 04/11/2026 at 22:08:24

tax on reverse charge basis. There was a difference of opinion amongst various benches of the Tribunal, pursuant to which the matter was referred to a larger bench and the impugned order was passed.

4. Learned counsel for the appellant relies upon Section 35L (2) of the Act, 1944 to contend that only appeals involving questions relating to the rate of duty would lie before the Supreme Court and that questions relating to taxability or classification would not fall within the ambit of the said provision.

5. Section 35G (1) and 35L the Act, 1944 is reproduced below:

> ***"Section [35G.Appeal to High Court.*** *-*
>
> *(1) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal on or after the 1st day of July, 2003 (not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment), if the High Court is satisfied that the case involves a substantial question of law.*
>
> ***Section 35L. Appeal to the Supreme Court*** *-*
>
> *[1] [(1)]An appeal shall lie to the Supreme Court from -*
> *[2] [(a) any judgment of the High Court delivered -*
> *(i) in an appeal made under section 35G; or*
> *(ii) on a reference made under section 35G by the Appellate Tribunal before the 1stday of July, 2003;*
> *(iii) on a reference made under section 35H, in any case which, on its own motion or on an oral application made by or on behalf of the party aggrieved, immediately after passing of the judgment, the High Court certifies to be a fit one for appeal to the Supreme Court; or].*

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 04/11/2026 at 22:08:24

(b) any order passed before the establishment of the National Tax Tribunal by the Appellate Tribunal relating, among other things, to the determination of any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment.

[3] [(2)For the purposes of this Chapter, the determination of any question having a relation to the rate of duty shall include the determination of taxability or excisability of goods for the purpose of assessment.]"

6. A plain reading of Section 35G of the Act, 1944 makes it clear that every order of the Tribunal is appealable before this Court on a substantial question of law. The exception relates to determination of a question concerning the rate of duty of excise or value of goods for the purpose of assessment.

7. Section 35L of the Act deals with appeals to the Supreme Court and Clause (b) of sub-section 1 of Section 35L provides for an appeal to the Supreme Court against an order of the Tribunal where the question relating to the rate of duty of excise or the value of goods for the purpose of assessment has been determined. Sub-Section (2) of Section 35L of the Act, 1944 is inclusive in nature and provides that the expression "the question having relation to the rate of duty" includes the determination of taxability or excisability of goods for the purpose of assessment.

8. The contention of the learned counsel for the appellant is misconceived. The language of Section 35L 1(b) of the Act, 1944 cannot be considered in isolation from Section 35L(2) of the Act, 1944.

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 04/11/2026 at 22:08:24

9. At this stage, it would be relevant to reproduce the issue dealt by the Tribunal and specifically formulated;

> *"The issue that arises for consideration is whether the services provided by "Computer Reservation System" 1 Companies to M/s. Air India Ltd. 2 (earlier known as Indian Airlines Ltd.) would be taxable on a reverse charge basis under the category of "online information and database access or retrieval" services defined under section 65 (75) of the Finance Act, 1994 and made taxable under section 65(105)(zh) of the Finance Act."*

10. From the reading of the issue it is clear that the issue pertains to taxability of the services provided to AIR India Ltd. by computer reservation system companies. The appeal is dismissed as not maintainable.

11. Needless to say, the appellant shall be at liberty to avail remedies in accordance with law.

AVNEESH JHINGAN, J

SHAIL JAIN, J

NOVEMBER 3, 2026
Pallavi

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 04/11/2026 at 22:08:24