



Summary of the Delhi High Court judgment in InterGlobe Aviation Ltd. Versus Principal Commissioner Of Customs Acc (Import) New Custom House New Delhi & Ors. W.P.(C) 934/2023 decided on 04.03.2025

The facts of the case being aircraft parts were originally sent abroad for repair by the Petitioner, and IGST was already paid on the repair service at the time of occurrence of transaction. When the same parts were reimported, the Customs Authorities sought to levy IGST again under Section 3(7) of the Customs Tariff Act, 1975 (CTA).

Key Issues Before the Court :

• **Double Taxation:** Whether IGST can be levied on reimported aircraft parts when IGST was already paid on repair services.

• **Validity of Notification No. 36/2021 and Circular No. 16/2021:** Whether the retrospective amendment imposing IGST on reimported goods was constitutional.

• **Power of Subordinate Legislation:** Whether the government could override judicial precedents via notifications without amending the parent statute.

Court's Key Findings :

• IGST on Reimported Goods is Invalid :

• IGST was already paid on repair services, so further taxation on reimport is unlawful.

• The court ruled that since GST law classifies sending goods abroad for repairs and their return as a supply of service (as per Schedule II of the CGST Act, 2017), reimporting the repaired parts cannot be treated as an import of goods for additional IGST levy.

• Section 3(7) of the CTA cannot override Section 5(1) of the Integrated Goods and Services Tax Act, 2017 (IGST Act).

• Retrospective Amendments Quashed:

• Notification No. 36/2021-Customs and Circular No. 16/2021 were unconstitutional as they exceeded subordinate legislative authority.

• Government cannot impose new tax liabilities retrospectively without explicit legislative backing.

• CESTAT in the case of the Petitioner had ruled in 2020 and 2021 that IGST could not be levied on reimported goods if IGST was already paid on the service. Instead of challenging this in a higher court, the government issued Notification No. 36/2021 and Circular No. 16/2021 to overturn the ruling, which exceeded the legal authority of subordinate legislation.

• Relief Granted to InterGlobe Aviation Ltd.:

• Demand for IGST on reimported aircraft parts was set aside.

• Refund/consequential relief granted to the petitioner.

• Implications of the Judgment :

• Prevents double taxation on the same transaction.

• Limits government power to introduce retrospective tax liabilities via notifications.

• Clarifies that repair and reimport do not automatically qualify as an "import of goods" for IGST.