



सत्यमेव जयते

केंद्रीय कर आयुक्त (अपील)

O/O THE COMMISSIONER (APPEALS), CENTRAL TAX,
केंद्रीय कर शुल्कभवन, 7th Floor, Central Excise Building,
सातवीं मंजिल, पोलिटेकनिक के पास, Near Polytechnic,
आम्बावाडी, अहमदाबाद-380015 Ambavadi, Ahmedabad-380015



☎ : 079-26305065

टेलीफैक्स : 079 - 26305136

क फाइल संख्या : File No : V2(ST)75/A-II/2017-18 / 44-45
ख अपील आदेश संख्या : Order-In-Appeal No. AHM-EXCUS-002-APP-248-17-18
दिनांक Date : 29-12-2017 जारी करने की तारीख Date of Issue 29/01/18

श्री उमा शंकर, आयुक्त (अपील) द्वारा पारित

Passed by Shri Uma Shanker Commissioner (Appeals)

ग Arising out of Order-in-Original No SD-01/28/AC/NIRMA/2016-17 Dated
28.03.2017 Issued by Assistant Commr STC, Service Tax, Div-I , Ahmedabad

घ अपीलकर्ता का नाम एवं पता
Name & Address of The Appellants

**M/s. Nirma University
Ahmedabad**

इस अपील आदेश से असंतुष्ट कोई भी व्यक्ति उचित प्राधिकारी को अपील निम्नलिखित प्रकार से कर सकता है:-

Any person aggrieved by this Order-in-Appeal may file an appeal to the appropriate authority in the following way :-

सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण को अपील:-
Appeal To Customs Central Excise And Service Tax Appellate Tribunal :-

वित्तीय अधिनियम, 1994 की धारा 86 के अंतर्गत अपील को निम्न के पास की जा सकती:-
Under Section 86 of the Finance Act 1994 an appeal lies to :-

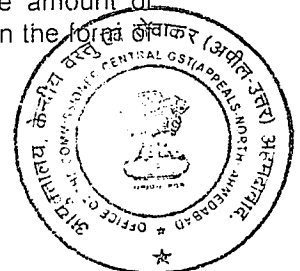
पश्चिम क्षेत्रीय पीठ सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण ओ. 20, न्यू मेंटल हास्पिटल कम्पाउण्ड, मेघानी नगर, अहमदाबाद-380016

The West Regional Bench of Customs, Excise, Service Tax Appellate Tribunal (CESTAT) at O-20, New Mental Hospital Compound, Meghani Nagar, Ahmedabad - 380 016.

(ii) अपीलीय न्यायाधिकरण को वित्तीय अधिनियम, 1994 की धारा 86 (1) के अंतर्गत अपील सेवाकर नियमावली, 1994 के नियम 9 (1) के अंतर्गत निर्धारित फार्म एस.टी- 5 में चार प्रतियों में की जा सकेगी एवं उसके साथ जिस आदेश के विरुद्ध अपील की गई हो उसकी प्रतियाँ भेजी जानी चाहिए (उनमें से एक प्रमाणित प्रति होगी) और साथ में जिस स्थान में न्यायाधिकरण का न्यायापीठ स्थित है, वहाँ के नाभित सार्वजनिक क्षेत्र बैंक के न्यायपीठ के सहायक रजिस्ट्रार के नाम से रेखांकित बैंक ड्राफ्ट के रूप में जहाँ सेवाकर की मांग, ब्याज की मांग ओर लगाया गया जुर्माना रूपए 5 लाख या उससे कम है वहां रूपए 1000/- फीस भेजनी होगी। जहाँ सेवाकर की मांग, ब्याज की मांग ओर लगाया गया जुर्माना रूपए 5 लाख या 50 लाख तक हो तो रूपए 5000/- फीस भेजनी होगी। जहाँ सेवाकर की मांग, ब्याज की मांग ओर लगाया गया जुर्माना रूपए 50 लाख या उससे ज्यादा है वहां रूपए 10000/- फीस भेजनी होगी।

(ii) The appeal under sub section (1) of Section 86 of the Finance Act 1994 to the Appellate Tribunal Shall be filed in quadruplicate in Form S.T.5 as prescribed under Rule 9(1) of the Service Tax Rules 1994 and Shall be accompany ed by a copy of the order appealed against (one of which shall be certified copy) and should be accompanied by a fees of Rs. 1000/- where the amount of service tax & interest demanded & penalty levied of Rs 5 Lakhs or less, Rs.5000/- where the amount of service tax & interest demanded & penalty levied is is more than five lakhs but not exceeding Rs. Fifty Lakhs, Rs.10,000/- where the amount of service tax & interest demanded & penalty levied is more than fifty Lakhs rupees. in the for

G. J. J.



crossed bank draft in favour of the Assistant Registrar of the bench of nominated Public Sector Bank of the place where the bench of Tribunal is situated.

(iii) वित्तीय अधिनियम, 1994 की धारा 86 की उप-धाराओं एवं (2ए) के अंतर्गत अपील सेवाकर नियमावली, 1994 के नियम 9 (2ए) के अंतर्गत निर्धारित फॉर्म एस.टी.-7 में की जा सकेगी एवं उसके साथ आयुक्त, केन्द्रीय उत्पाद शुल्क (अपील) के आदेश की प्रतियाँ (OIA) (उसमें से प्रमाणित प्रति होगी) और अपर आयुक्त, सहायक / उप आयुक्त अथवा A219K केन्द्रीय उत्पाद शुल्क, अपीलीय न्यायाधिकरण को आवेदन करने के निदेश देते हुए आदेश (OIO) की प्रति भेजनी होगी।

(iii) The appeal under sub section (2A) of the section 86 the Finance Act 1994, shall be filed in Form ST-7 as prescribed under Rule 9 (2A) of the Service Tax Rules, 1994 and shall be accompanied by a copy of order of Commissioner Central Excise (Appeals)(OIA)(one of which shall be a certified copy) and copy of the order passed by the Addl. / Joint or Dy. /Asstt. Commissioner or Superintendent of Central Excise & Service Tax (OIO) to apply to the Appellate Tribunal.

2. यथासंशोधित न्यायालय शुल्क अधिनियम, 1975 की शर्तों पर अनुसूची-1 के अंतर्गत निर्धारित किए अनुसार मूल आदेश पर स्वयं प्राधिकारी के आदेश की प्रति पर रु 6.50/- पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।

2. One copy of application or O.I.O. as the case may be, and the order of the adjudication authority shall bear a court fee stamp of Rs.6.50 paise as prescribed under Schedule-I in terms of the Court Fee Act, 1975, as amended.

3. सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्यविधि) नियमावली, 1982 में चर्चित एवं अन्य संबंधित मामलों को सम्मिलित करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है।

3. Attention is also invited to the rules covering these and other related matters contained in the Customs, Excise and Service Appellate Tribunal (Procedure) Rules, 1982.

4. सीमा शुल्क, केन्द्रीय उत्पाद शुल्क एवं सेवाकर अपीलीय प्राधिकरण (सीस्तेत) के प्रति अपीलों के मामलों में केन्द्रीय उत्पाद शुल्क अधिनियम, 1984 की धारा 35फ के अंतर्गत वित्तीय(संख्या-2) अधिनियम 2014(2014 की संख्या 29) दिनांक: 06.08.2014 जो की वित्तीय अधिनियम, 1984 की धारा 23 के अंतर्गत सेवाकर को भी लागू की गई है. द्वारा निश्चित की गई पूर्व-राशि जमा करना अनिवार्य है. बशर्ते कि इस धारा के अंतर्गत जमा की जाने वाली अपेक्षित देय राशि दस करोड़ रूपए से अधिक न हो

केन्द्रीय उत्पाद शुल्क एवं सेवाकर के अंतर्गत " माँग किए गए शुल्क " में निम्न शामिल है -

- (i) धारा 11 डी के अंतर्गत निर्धारित रकम
- (ii) सेनवैट जमा की ली गई गलत राशि
- (iii) सेनवैट जमा नियमावली के नियम 6 के अंतर्गत देय रकम

⇒ आगे बशर्ते यह कि इस धारा के प्रावधान वित्तीय (सं. 2) अधिनियम, 2014 के आरम्भ से पूर्व किसी अपीलीय प्राधिकारी के समक्ष विचाराधीन स्थगन अर्ज़ी एवं अपील को लागू नहीं होगा।

4. For an appeal to be filed before the CESTAT, it is mandatory to pre-deposit an amount specified under the Finance (No. 2) Act, 2014 (No. 25 of 2014) dated 06.08.2014, under section 35F of the Central Excise Act, 1944 which is also made applicable to Service Tax under section 83 of the Finance Act, 1994 provided the amount of pre-deposit payable would be subject to ceiling of Rs. Ten Crores.

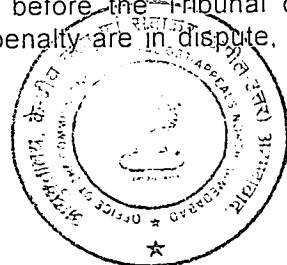
Under Central Excise and Service Tax, "Duty demanded" shall include:

- (i) amount determined under Section 11 D;
- (ii) amount of erroneous Cenvat Credit taken;
- (iii) amount payable under Rule 6 of the Cenvat Credit Rules.

⇒ Provided further that the provisions of this Section shall not apply to the stay application and appeals pending before any appellate authority prior to the commencement of the Finance (No.2) Act, 2014.

4(1) इस संदर्भ में, इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो माँग किए गए शुल्क के 10% भुगतान पर और जहाँ केवल दण्ड विवादित हो तब दण्ड के 10% भुगतान पर की जा सकती है।

4(1) In view of above, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.



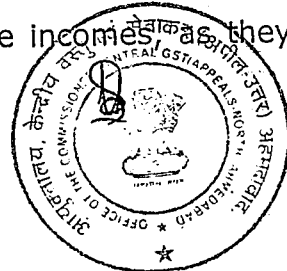
ORDER-IN-APPEAL

M/s. Nirma University (*hereinafter referred to as 'appellant'*), S.G. Highway, Ahmedabad-382481, holding Service Tax Registration No. AAATT6829NSD001 for providing taxable services viz. (i) Commercial Training or Coaching Service (2) Management Consultant Service (3) Technical Testing & Analysis Service and (iv) Maintenance or Repair Service. The appellant have filed the present appeal on 25.05.2017, against the Order-in-Original No. SD-01/28/AC/Nirma/2016-17 dated 28.03.2017 (*hereinafter referred to as 'impugned order'*) passed by the Assistant Commissioner, Service Tax, Division-I, Ahmedabad (*hereinafter referred to as the 'Adjudicating authority'*), confirming the demand amounting to Rs.31,11,557/-, alongwith interest under Section 75 & also imposing penalty under Section 77 & 78 of the Finance Act, 1994, for short payment of Service tax on the taxable value disclosed on reconciliation of the appellant's income during the audit of their records for the period 2010-11 to 2014-15.

2. The facts of the case, in brief, are that during the audit of the records of the appellant, the reconciliation of the incomes reported by them in their books of accounts and that reported in their ST-3 returns was done, and it was observed that the appellant had shown less income in their ST-3 returns as compared to that shown in their books of accounts. The particulars of the differential taxable value is as under –

Period	Taxable Value as per books of accounts (in Rs.)	Taxable value as per ST-3 returns (in Rs.)	Difference in taxable value (in Rs.)	Net Differential Service Tax payable @ 10.30%/12.36% (in Rs.)
2010-11	11891082	0*	11891082	1224781
2011-12	13064767	8246195	4818572	496313
2012-13	13168837	8549229	4619608	570984
2013-14	13060852	8441842	4619010	570910
2014-15	12643537	10632455	2011082	248570
TOTAL				3111557

3. The appellant contended that the difference was mainly on account of charges collected for Registration of students for Placement and Seminars/Workshops and that those are non-taxable incomes and they are



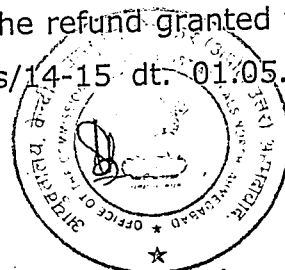
covered under the Negative List of services provided under Section 66D(l) of the Finance Act, 1994. As the contention of the appellant did not appear to be correct, and the appellant appeared to have contravened the provisions of Section 67 to 70 of the Finance Act, 1994, read with Rule 6,4 and 7 of the Service Tax Rules, 1994, rendering themselves liable to penalty under the relevant Sections, a Show Cause Notice dt.21.10.2015, was issued to them demanding recovery of Service tax amounting to Rs. 31,11,557/-. In pursuance of Notification No.44/2016-ST dt.28.09.2016, and Circular No. 1049/37/2016-CX dt.29.09.2016, the said S.C.N. dt.21.10.2015, issued by the Joint Commissioner, Central Excise & Service Tax, Audit-II, was made answerable to the Assistant Commissioner, Service Tax, Division-I, Ahmedabad, vide letter of F.No.STC/4-45/O&A/ADC/Audit(D-II)/15-16 dt.01.12.2016. The Adjudicating Authority vide OIO No.SD-01/28/AC/NIRMA/2016-17 dt.28.03.2017, confirmed the demand of recovery of Service tax amounting to Rs.31,11,557/-, interest at the appropriate rate under Section 75 of the Finance Act, 1994, and also imposed penalty under Section 77(1)(a), 77(2) and 78 of the Finance Act, 1994.

4. Being aggrieved by the impugned order dt. 28.03.2017, the appellant has filed this appeal before me on the grounds that (i) the Campus Placement fee charged by the appellant to its own students cannot attract Manpower Recruitment or Supply Agency Service; (ii) the Campus Placement Programme was a bundled service, with the main service being education, which was outside the purview of taxability for the period prior to 30.06.2012, in view of the exclusion provided in the Commercial C Adjudicating Authority did not record any discussion or finding on the contentions raised in the appellant's reply; (iii) when the department has not preferred an appeal, their contention of holding refund erroneous is baseless; and (iv) the Adjudicating Authority did not meet the time line as envisaged in the sub-section 4B of Section 73 of the Finance Act, 1994.

5. During the personal hearing, the learned Advocate of the appellant appeared before me and reiterated the grounds of appeal and also made additional written submission.

6. I have carefully gone through the facts of the case on record, grounds of appeal in the Appeal Memorandum, further submissions and oral submissions made by the appellant at the time of personal hearing.

7. The question to be decided is as to whether the refund granted to the appellant vide OIO No. SD-01/Refund/13/AC/Altus/14-15 dt. 01.05.2014,



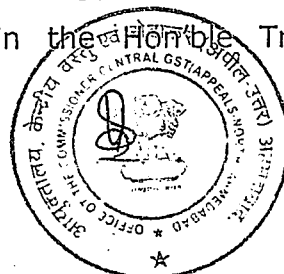
was proper or not and whether the Adjudicating Authority's confirmation of demand vide OIO No. SD-01/28/AC/NIRMA/2016-17 dt.28.03.2017, is proper or not.

8. The matter involved in this case pertains to the period from 2010-11 to 2014-15, which includes the pre-negative list period of April, 2010 to June, 2012 and the post-negative list period of July, 2012 to March, 2015. Even the definition of 'Commercial Training or Coaching Centre Services' has undergone a change for more than a couple of times during this entire disputed period in this case. I would therefore, take up the matter according to the different time zones for 'Commercial Training or Coaching Centre Services'.

9. During the pre-negative list period, from April'10 to April'11, the definition of the concerned service stated that –

'Commercial Training or Coaching Centre Services' means any institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than the sports, with or without issuance of a certificate and includes coaching or tutorial classes but does not include pre-school coaching and training centre or any institute or establishment which issues any certificate or diploma or degree or any educational qualification recognised by law for the time being in force.'

The above-mentioned definition of 'Commercial Training or Coaching Centre Services' excluded all such services provided by institutes or establishments out of its purview which were issuing any certificate or diploma etc. recognized by law. The appellant being a University established under a special act passed by the Gujarat State Legislative Assembly and recognized by the University Grants Commission (UGC) under section 2 (f) of the UGC Act, the services provided by the appellant were exempted vide the exclusion clause mentioned in the above-mentioned definition for the concerned period of April'10 to April'11. The appellant had collected charges from their students towards Registration for placement for allowing the student to take part in the recruitment process conducted by the appellant mostly at their campus, on completion of his or her studies. This collection of Registration fee by the appellant from their students in itself does not seem to comprise as Manpower Recruitment Agency Service as alleged in the impugned order by the Adjudicating Authority. The appellant has cited the case of Motilal Nehru National Institute of Technology v/s CCE & ST, Allahabad [2015(40)STR 375(Tri. Del.)], wherein the Hon'ble Tribunal contended that –



"5. The period in issue in the present appeal is 1-5-2006 to 31-3-2007. During this period, manpower recruitment or supply agency service was defined in Section 65(68) as any commercial concern/any person engaged in providing any service, directly or indirectly, in any manner for recruitment or supply or manpower, temporarily or otherwise, to a client. Section 65(105)(k) states that this service is a service provided or to be provided to any person, by a manpower recruitment or supply agency in relation to the recruitment or supply of manpower, temporarily or otherwise, in any manner.

6. From the definition and the enumeration of this activity as a taxable service, it is clear that what is taxable is the rendition of any service towards recruitment or supply or manpower, temporarily or otherwise to a client. The recipient of this service is a client who receives services in the nature of recruitment or supply of manpower, temporarily or otherwise. The recipient client must thus be an employer or prospective employer and the consideration for this service must flow from such employer to the provider of the service. The placement facilitation provided by educational institutions whereunder the placement charges are collected from students and not from an employer or a prospective employer, do not on a fair and reasonable interpretation of the taxable service as defined in the Act, fall outside the purview of either the definitional or enumerative provision of the Act.

7. The concurrent conclusions to the contrary recorded by the primary or lower appellate authorities are fundamentally misconceived, invite invalidation and are accordingly quashed. The appeal is allowed."

The CESTAT has made it clear that the Recipient of the Service in a Manpower Recruitment or Supply Agency Service is either an employer or a prospective employer. The Manpower in itself or a Recruited person or in this case the student, is not a Service Receiver covered under the Manpower Recruitment or Supply Agency Service. As such, the appellant was not required to pay any Service tax during the pre-negative list period, from April'10 to April'11, in the concerned matter of charging Campus Placement fee by the appellant to its own students.

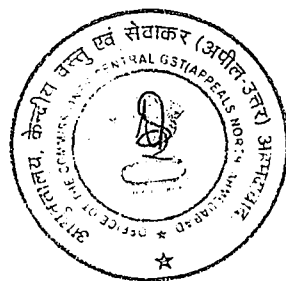
10. The Finance Act, 2011, changed the definition of 'Commercial Training or Coaching Centre' by way of doing away with the exclusion which was part of the erstwhile definition. Thus for the remaining pre-negative list period in this case, from May'11 to June'12, the definition of the concerned service stated that -



"Commercial Training or Coaching Centre" means any institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than the sports, with or without issuance of a certificate and includes coaching or tutorial classes".

It is noticeable that the definition has deleted the reference of services provided by any commercial coaching or training centre leading to grant of a certificate or diploma or degree or any educational qualification which is recognized by any law. However, the Government vide Notification No. 33/2011-ST dt. 25.04.2011, exempted (i) any pre-school coaching and training; and (ii) any coaching or training leading to grant of a certificate or diploma or degree or any educational qualification which is recognised by any law for the time being in force, when provided by any commercial coaching or training centre from the whole of the service tax leviable thereon. While, it is clear that the concerned matter of charging Campus Placement fee by the appellant to its own students does not fall under Manpower Recruitment or Supply Agency Service, however it requires to be examined whether it would fall under the exemption granted vide Notification No. 33/2011-ST dt. 25.04.2011, for 'Commercial Training or Coaching Centre' Service'. Also, worth noting is the exemption granted for this service under Notification No. 10/2003-ST dt.20.06.2003, which provides some clarity on the charges for such services which are paid by the person undergoing such course or curriculum directly to the commercial training or coaching centre, when provided by any other institute or establishment. I find that the concerned matter is covered under the exemption Notification No. 33/2011-ST, as the service was provided by the appellant to the students pursuing coaching or training leading to grant of a certificate or diploma or degree or any educational qualification which is recognised by any law and the students had paid the fees directly to the appellant and not to any other service provider. As per the clarification issued at Para 2.2.3 by CBEC vide Circular No. 59/8/2003 dt.20.06.2003 :

"By definition, such institutes or establishments, which issue a certificate, diploma or degree recognized by law, are outside the purview of "Commercial Training or Coaching Institute". Thus, even if such institutes or establishments provide training for competitive examinations etc. such services rendered would be outside the scope of service tax."



As such, it is amply clear that even after the change in the definition of 'Commercial Training or Coaching Centre Service', no service tax was required to be paid during the pre-negative list period, from May'11 to June'12, in the concerned matter of charging Campus Placement fee by the appellant to its own students.

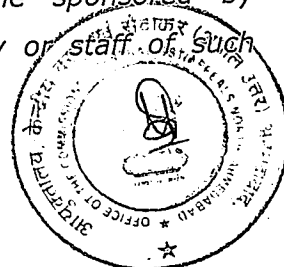
11. Consequent to the introduction of Finance Bill, 2012, the Negative list of Services was introduced as Section 66D of the Finance Act, 1994, effective from 01.07.2012. Accordingly, the Service tax administration shifted from selective taxation to comprehensive taxation, without reference to specific head of any service. Accordingly, all services pertaining to education, commercial training or coaching centre services, etc. became taxable except the below-mentioned Services indicated at Section 66D (I) of the Finance Act, 1994 -

"Services by way of :-

- (i) Pre-school education and education up to higher secondary school or equivalent;*
- (ii) Education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;*
- (iii) Education as a part of an approved vocational education course."*

Therefore, the education provided by the appellant in this case, being a part of a curriculum for obtaining a qualification recognised by law, was covered under Negative list of services. While the Negative list exempted the basic education service provided by such educational institutions, the Board vide Sl. No. 9(a) of Mega Notification No. 25/2012-ST dt. 20.06.2012, exempted auxiliary educational services, wherein 'Auxiliary educational services' has been defined as -

(f) "auxiliary educational services" means any services relating to imparting any skill, knowledge, education or development of course content or any other knowledge - enhancement activity, whether for the students or the faculty, or any other services which educational institutions ordinarily carry out themselves but may obtain as outsourced services from any other person, including services relating to admission to such institution, conduct of examination, catering for the students under any mid-day meals scheme sponsored by Government, or transportation of students, faculty or staff of such institution;"



It is noticeable that through this exemption, even services outsourced by such educational institutions are exempted from Service tax. Thus, even after the introduction of Negative list i.e. from July'12 to March'15, the period covered in this case, no Service tax was required to be paid in the concerned matter of charging Campus Placement fee by the appellant to its own students. In this connection, the Hon'ble Tribunal's judgements in the case of Motilal Nehru National Institute of Technology v/s. CCE & ST, Allahabad [cited at 2015(40) S.T.R. 375 (Tri.-Del.)] and in the case of Sydenham Institute of Management v/s. Commissioner of Central Excise, Mumbai-I [cited at 2016(44)S.T.R. 69 (Tri-Mum.)], have left the issue no more *res integra*.

12. The appellant's another matter in this case pertains to organizing seminar/workshops for its students/staff/faculties and also for students of other universities/colleges, which was confirmed by the Adjudicating Authority and made liable to service tax under the 'Commercial Coaching and Training Service', before and after the introduction of the negative list. Again, this particular service provided by the appellant, has to be bifurcated in to different time zones and the characteristics of the service. The appellant had contended that they organized seminar/workshop for its students, staff & faculties and also for students of other universities. Now, during the period from April'10 to June'12, the definition of 'Commercial Training or Coaching Centre Services' was as defined in Para 9 & 10 above. The seminar/workshops carried out by the appellant for its students, staff and faculties were covered under the said definition or through the exemption granted by Noti. No. 33/2011-ST dt.25.04.2011, as the same were training leading to grant of a certificate or diploma or degree or any educational qualification which is recognised by any law. Similarly, the seminar/workshops carried out by the appellant for its students, staff and faculties, the period from July'12 to March'15, were covered by the Sl. No. 9(a) of Mega Notification No. 25/2012-ST dt. 20.06.2012, exempting auxiliary educational services. Auxiliary educational services defined in the said notification doesn't change the exemption which was already existing prior to that, but tries to add to that exemption any services outsourced by the educational institution for imparting knowledge or skill for the students or the faculty. As such, no Service tax was required to be paid by the appellant for the seminar/workshops carried out by the appellant for its students, staff and faculties for the period from April'10 to March'15.



13. The seminar/workshops carried out by the appellant for the students, staff and faculties of other universities/institutes, would not be covered under the 'Commercial Training or Coaching Centre Services' till the introduction of the negative list, as at Para 2.2.3 by CBEC vide Circular No. 59/8/2003 dt.20.06.2003, it has been clarified that such institutes/establishments were out of its purview. Therefore, no service tax was required to be paid by the appellant for the seminar/workshops carried out by the appellant for the students, staff and faculties of other universities/institutes during the period from April'10 to June'12. Besides, from 1.7.2012, with the introduction of negative list, any service that is not covered under the negative list had to be covered by any exemption notification issued in this regard. The seminar/workshops carried out by the appellant for the students, staff and faculties of other universities/institutes from 1.07.2012, was covered by Sl. No. 9(a) of the Notification No. 25/2012-ST dt.20.06.2012, which exempted the following taxable service :

"9. Services provided to or by an educational institution in respect of education exempted from service tax, by way of,-

(a) auxiliary educational services;"

The said exemption is for the services provided by an educational institution in respect of education exempted from service tax, by way of auxiliary educational services. The definition of 'Auxiliary educational services' clearly includes any services relating to imparting any skill or any other knowledge-enhancement activity. The Seminars/conferences/workshops carried out by the appellant for the staff and faculties of other universities/institutes and also for industry participants & professionals, were providing certificates that enhanced the participant's knowledge. The said exemption granted for 'Auxiliary educational services' vide entry No.9 of Notification No.25/2012-ST was amended vide Notification No. 6/2014-ST dt.11.07.2014, with the following entry :

(1) In the said notification, in the opening paragraph,-

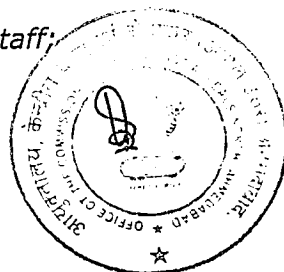
(iii) for entry 9, the following entry shall be substituted, namely:-

"9. Services provided,-

(a) by an educational institution to its students, faculty and staff;

(b) to an educational institution, by way of,-

(i) transportation of students, faculty and staff;

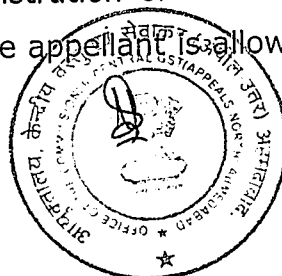


- (ii) catering, including any mid-day meals scheme sponsored by the Government;
- (iii) security or cleaning or house-keeping services performed in such educational institution;
- (iv) services relating to admission to, or conduct of examination by, such institution";'

It is apparent from the above amendment by Notification No. 6/2014-ST, that the exemption availed for services provided by an educational institution was now restricted to its own students, faculty and staff. Sl.No.9(a) now granted exemption to services provided by an educational institution to its students, faculty and staff. The exemption granted under Sl. No. 9(b) is for services provided to an educational institution, like the appellant, by any service provider who is providing the service of transportation, catering, security, cleaning, house-keeping or related to conduct of admission or examination. The appellant has informed in his appeal that they have been paying Service tax w.e.f. 11.07.2014, for the Seminars/conferences/workshops carried out by the appellant for the staff and faculties of other universities/institutes and also for industry participants & professionals. Therefore, I conclude that the exemption from service tax for the appellant for the Seminars/conferences/workshops carried out by the appellant for the students, staff and faculties of other universities/institutes and also for industry participants & professionals, was available only for the period April'10 to 10.07.2014, and from 11.07.2014 onwards only, such service was liable to service tax for the above-mentioned reasons.

14. As regard the appellant's contention that they had discharged their service tax liability for the period 2010-11, but they had not filed the ST-3 return for the corresponding period after taking Service tax registration in October'11, I agree with the appellant's contention that the adjudicating authority has not given any finding in this matter except that the appellant has not submitted any documents in this regard evidencing correct figures of the amount claimed for deduction. As such, I remand back this matter to the Adjudicating Authority to look in to this limited aspect with a direction to the appellant to provide all the available documentary evidence to the Adjudicating Authority in this regard.

15. As regards the limitation aspect, the question does not arise anymore as the matter pertaining to charges collected for Registration of students for Placement and Seminars/Workshops arranged by the appellant is allowed as



per Appellant's appeal and the impugned order is set aside to that extent. However, the matter is remanded back to the Adjudicating Authority for the limited purpose of looking in to the aspect of not obtaining registration, non-filing of ST-3 returns and determining of the correct amount of Service tax payable after allowing Cenvat credit on the basis of documentary evidence submitted by the appellant, for the period 2010-11.

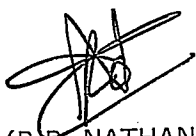
16. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।
16. The appeal filed by the appellant, stands disposed off in above terms.

उमा शंकर

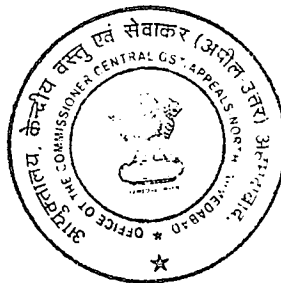
(उमा शंकर)

आयुक्त (अपील्स)

ATTESTED



(R.R. NATHAN)
SUPERINTENDENT,
CENTRAL TAX APPEALS,
AHMEDABAD.



By R.P.A.D.:

To,

M/s. Nirma University,
Sarkhej-Gandhinagar Highway
Ahmedabad.

Copy to:

- 1) The Chief Commissioner, Central Tax, GST, Ahmedabad Zone.
- 2) The Commissioner, Central Tax, Ahmedabad-North.
- 3) The Dy./Asst. Commissioner, Division-VII, Central Tax, GST, Ahmedabad (North), Ahmedabad.
- 4) The Asst. Commissioner(System), Central Tax, Hqrs., Ahmedabad (North).
- 5) Guard File.
- 6) P.A. File.