IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
REGIONAL BENCH : ALLAHABAD
COURT No. I

APPEAL No. ST/2406/2012-CU[DB]

(Arising out of Order-in-Appeal No.169-ST/APPL/KNP/2012 dated 14/05/2012 passed by Commissioner (Appeals), Customs, Central Excise & Service Tax, Kanpur)

M/s FITTJEE LIMITED **Appellant**

Vs.

Commissioner of Central Excise & Service Tax, Lucknow **Respondent**

Appearance:

Shri Pravin Sharma (Advocate) for Appellant
Shri Rajeev Ranjan (Addl. Commr.) AR for Respondent

CORAM:

Hon'ble Mrs. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Anil G. Shakkarwar, Member (Technical)

Date of Hearing : 20/06/2018
Date of Decision : 20/06/2018

FINAL ORDER NO. – 71180/2018

Per: Archana Wadhwa

The short issue involved in the present appeal is that reference to valuation of taxable service under the category of "Commercial Training & Coaching Services" rendered by the appellant. The Lower Authorities have confirmed the demand on the ground that the value of the course material/book supplied separately by the appellant is required to be added in the value of services and exemption under Notification No.12/2003-ST dated

20/06/2003 exempting service tax on the component of such sale value stands denied to the appellant.

2. Both the sides agree that the issue stands decided in their own case reported as Fiitjee Ltd. Final Order No.ST/A/50512/2017-CU[DB] dated 23/01/2017, which further stands followed in their subsequent appeals. Relevant Para is reproduced:-

> *"5. The appellants are providing taxable service under the category of "Commercial Coaching and Training" and were discharging service tax on the same. The dispute in the present case is relating to abatement in terms of Notification No.12/03-ST towards the amount received on supply of study materials, books/kit. We have perused some of the documents submitted by the appellant to support their claim that they have separate receipt for supply of books and study materials indicating the price clearly. We have also noted that they have sold such study materials/books to non-registered students. Their prospectus advertising for various coaching programmes clearly mentions the price of books and study materials. In such factual scenario, we find that the appellant's claim for exemption under*

Notification No.12/03-ST cannot be rejected. Ld. Counsel for the appellant confirmed that there is no question of their availing any Cenvat credit on such books and study materials as there is no tax paid on any of them. We find the impugned order denying the benefit of Notification No.12/03-ST is not legally sustainable. In this regard, we also rely on the decisions of the Tribunal in cases of Cerebral Learning Solutions Pvt. Ltd. – 2013 (32) STR 379 (T-D), Chate Coaching Classes Pvt. Ltd. – 2013 (29) STR 138 (T-M), Pinnacle – 2011 (24) STR 453 (T-D) and Mastermind Classes Pvt. Ltd. vide Final Order No.53685/2015 dated 19.11.2015."

3. Inasmuch as the matter is decided in favour of the assessee, we set aside the impugned order and allow the appeal with consequential relief to the appellant.

(Dictated & Pronounced in Court)

Sd/-	**Sd/-**
(Anil G. Shakkarwar)	**(Archana Wadhwa)**
Member (Technical)	**Member (Judicial)**

Lks