IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH ZONAL BENCH, CHENNAI

Appeal No. ST/193/2012

(Arising out of Order-in-Original No. 21/2011 S. Tax /Ch. IV dated 29.12.2011 passed by the Commissioner of Central Excise, Chennai – IV)

M/s. CADD Centre Training Services Pvt. Ltd. Appellant

Vs.

Commissioner of Service Tax, Chennai Respondent

Appearance

Shri J. Shankar Raman, Advocate for the Appellant
Shri K. Veerabhadra Reddy, JC (AR) for the Respondent

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Hon'ble Ms. Sulekha Beevi C.S., Member (Judicial)
Hon'ble Shri Madhu Mohan Damodhar, Member (Technical)

Date of Hearing / Decision: **22.05.2018**

Final Order No. **41547 / 2018**

Per Bench

The appellants are engaged in providing training in the fields of design, multimedia, architectural engineering, mechanical design analysis etc. and are registered under the category of Commercial Coaching and Training services and franchise service etc. During the course of audit of accounts, it was inter alia noticed that the appellant had not discharged the service tax on the value of books supplied while rendering the service of commercial training and coaching service. Show cause notice was issued raising the above allegation including other issues which after adjudication upheld the demand of service tax along with interest and imposed penalties. Aggrieved by the said order, the appellant has preferred the present appeal contending that they are not liable to pay service tax on the value of books supplied.

2. On behalf of the appellant, ld. counsel Shri J. Shankar Raman submitted that the issue whether appellants are liable to pay service tax on the materials supplied while providing training in computer software and hardware is settled by the decision of the Tribunal in the case of Cerebral Learning Solutions Pvt. Ltd. Vs. Commissioner of Central Excise – 2013 (32) STR 379. He submitted that as per Notification No. 12/2003-ST dated 20.6.2003, as amended by Notification No.. 12/2004-ST dated 10.9.2004, the appellants are eligible for the benefit of abatement. The income from sale of books is mentioned in their statutory book of accounts and also in returns filed with the Income Tax Department.

3. The ld. AR Shri K.Veerabhadra Reddy supported the findings in the impugned order.

4. Heard both sides.

5. The short issue for consideration is whether the appellant is liable to pay service tax on the value of books supplied for rendering commercial training and coaching service. As argued by the ld. counsel for the appellant, the issue stands covered by the decision in the case of Cerebral Learning Solutions Pvt. Ltd.

(supra). The relevant portion of the order is reproduced as under:-

> *"6. In our considered view, the clarification in the Board Circular dated 20-6-2003 is misconceived, clearly illegal and contrary to the statutory exemption Notification dated 20-6-2003. Where the legislature has spoken or in exercise of its statutory power exemption is granted by the Central Government under Section 93 of the Act, the CBEC has no manner of power, authority or jurisdiction to deflect the course of an enactment or the exemption granted. Grant of exemption from the liability to tax is a power exclusively authorised to the Central Government under Section 93 of the Act. This statutory provision accommodates no participatory role to the Board. In seeking to engraft restrictions on the generality and plenitude of the exemption granted by the Central Government, the CBEC transgressed into the domain of the Central Government under Section 93 of the Act, a course of action clearly prohibited. On the above analysis, that part of the clarification of the CBEC which engrafts a condition that the exemption notification is applicable only where the value of the course material (sold by a commercial or training institute) answers the description of standard text books which are priced, is illegal, unauthorised and of no effect. No notice or cognition can be taken by any authority or such unauthorised exertions by the CBEC. If this illegal and unauthorised condition, imposed on the generality of exemption granted by the Central Government vide Notification No. 12/2003-S.T., dated 20-6-2003 is ignored, as it must, the assessee/appellant is clearly entitles to the benefit of the exemption."*

6. Following the same, we are of the view that the demand cannot sustain. The impugned order is set aside and the appeal is allowed with consequential relief, if any.

(Operative portion of the order was
pronounced in open court)

(**Madhu Mohan Damodhar**)
Member (Technical)

(**Sulekha Beevi C.S.**)
Member (Judicial)

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