IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, CHENNAI

Service Tax Appeal No. 40649/2016

(Arising out of Order in Appeal No. 433/2015 (CXA – II) dated 23.12.2015 passed by the Commissioner of Central Excise (Appeals – II), Chennai)

Pondicherry Engineering College **Appellant**
Pillaichavadi,
Puducherry – 605 014.

Vs.

Commissioner of GST & Central Excise **Respondent**
Puducherry Commissionerate
No. 1, Goubert Avenue
Puducherry – 605 001.

APPEARANCE:

Shri G. Hari Govind, Chartered Accountant for the Appellant
Shri N. Satyanrayanan, Authorised Representative for the Respondent

CORAM

Hon'ble Shri M. Ajit Kumar, Member (Technical)
Hon'ble Shri Ajayan T.V., Member (Judicial)

FINAL ORDER NO. 40996/2025

Date of Hearing: 02.09.2025
Date of Decision: 09.09.2025

Per M. Ajit Kumar,

This appeal is filed by the appellant against Order in Appeal No. 433/2015 (CXA – II) dated 23.12.2015 passed by the Commissioner of Central Excise (Appeals – II), Chennai (impugned order).

2. Brief facts of the case are that the appellant is a provider of Technical Testing and Analysis Service. During the verification of the accounts of M/s. Numeric Power Systems, Puducherry it was noticed that they had received taxable service namely 'Technical Testing and Analysis service' from the appellant. Based on the payments made to

the appellant, total Service Tax liability was arrived at Rs.3,42,367/- payable by the appellant. Hence Show Cause Notice dated 23.4.2012 was issued proposing to demand the Service Tax not paid by the appellant along with interest and also to impose equal penalty under sec. 78 of the Finance Act, 1994. After due process of law, the Ld. Original Authority confirmed the proposals in the Show Cause Notice. In appeal, the Ld. Commissioner (Appeals) upheld the order. Hence the present appeal before this Tribunal.

3. The learned Chartered Accountant Shri G. Hari Govind appeared for the appellant and Ld. Authorized Representative Shri N. Satyanarayanan appeared for the respondent.

3.1 The Ld. Counsel Shri G. Hari Govind for the appellant submitted that this Tribunal vide Final Order No. 40102/2017 dated 25.1.2017 had held that the appellant is liable for payment of Service Tax on services provided under 'Technical Testing and Analysis Service'. However, penalty was set aside holding that there was no deliberate intention on the part of the appellant to evade payment of service tax as they were under the bonafide belief that the appellant is a non-profiteering education institution. Hence he prayed for setting aside of the penalty imposed under sec. 78 of the Finance Act, 1994.

3.2 The Ld. AR Shri N. Satyanarayanan reiterated the findings contained in the impugned order.

4. After hearing both sides and perusing the appeal memorandum and connected papers, we find that this Tribunal vide Final Order No. 40102/2017 dated 25.1.2017 has clearly held that the appellant is

liable to pay Service Tax along with interest. Relevant portion of the Order is reproduced below:

> "2. When the appeal is looked into, the service tax demand is Rs.1,11,038/-. This is on account of Technical and Testing Service provided by the appellant. There is absolutely no scope to consider whether such service is immune from taxation. The only submission of the appellant is that the college is a non-profiteering organization. There appears no consideration in the Finance Act, 1994 in respect of non-profiteering concept in the taxation. Consequently, appeal is dismissed on the tax demand aspect.
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> 3. When the penalty aspect is looked into, there appears no deliberate intention of the appellant when para 15 of the adjudication order is read. Therefore, levy of penalty on the college is unwarranted in the fitness of the circumstance of the case. Accordingly, penalty is waived.
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> 4. Interest, if any, payable shall be paid by the appellant on the tax demand.
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> 5. In the result, appeal is partly allowed to the extent indicated above."

5. The above Order is final as the appellant has not produced any evidence nor have they claimed that the order has been set aside or even been appealed against. In fact, it has been relied upon as a precedent to set aside the penalty. No new facts have also been brought to our notice. As stated by the Supreme Court in **Synthetics and Chemicals Ltd and others Vs State of U.P. and others** [AIR 1990 SUPREME COURT 1927 / 1990 (1) SCC 109], "Uniformity and consistency are core to judicial discipline." The doctrine of binding precedent promotes certainty and consistency in judicial decisions. [See: **Total Environment Building Systems Pvt. Ltd. Vs Deputy Commissioner of Commercial Taxes** [2022 (63) G.S.T.L. 257 (S.C.)]. Therefore the previous Order on the same issue is binding on us.

6. Considering the facts of the case we uphold the demand for duty and interest. However, since there was no evidence to show deliberate intention to evade payment of duty, the allegation of suppression of facts cannot be sustained, hence the penalty imposed is set aside. The impugned order stands modified accordingly. The appellant is eligible for consequential relief, if any, as per law.

(Order pronounced in open court on 09.09.2025)

(**AJAYAN T.V.**)
Member (Judicial)

(**M. AJIT KUMAR**)
Member (Technical)

Rex