

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH – COURT No. I

Service Tax Appeal No. 40793 of 2016

(Arising out of Order-in Appeal No.426/2015 (STA-II), dated 31.12.2015 passed by the Commissioner of Service Tax (Appeals II), Newry Towers, 3rd Floor, Plot No.2054, I Block, II Avenue, Anna Nagar, Chennai 600 040).

M/s. Synergy Envision Private Limited

...Appellant

D – 7, Shanthi Apartments
21, TTK Road, 1st Cross Street
Alwarpet, Chennai 600 018

Versus

Commissioner of GST & Central Excise

...Respondent

Newry Towers, 3rd Floor
Pot No.2054, Block II
II Avenue, Anna Nagar, Chennai 600 040

AND

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APPEARANCE:

Mr. N.K. Bharath Kumar, Chartered Accountant for the Appellant
Ms. G. Krupa, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. M. AJIT KUMAR, MEMBER (TECHNICAL)

HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER Nos.40554-40555/2026

DATE OF HEARING:21.01.2026
DATE OF DECISION: 04.05.2026

Per Mr. AJAYAN T.V.

These two appeals arising out of the impugned order being interconnected and involving common issues, are therefore heard together and are disposed of by this common order.

2. Synergy Envision Private Ltd. (SEPL), the Appellant herein, is engaged in providing courses and training programmes in computer graphics and animation. On intelligence that SEPL is not registered with the Department and have not paid service tax or filed ST-3 returns on services that appeared to be covered under "Commercial Training and Coaching Service" (CTCS), the officers of the Service Tax Commissionerate, Chennai called for documents from the Appellant. In the course of their enquiry, a statement was recorded from the Director of CPA, and on a perusal of the business partner agreement dated 24.11.2007 entered into between M/s. Maya Academy of Advanced Cinematics, Mumbai and SEPL, the Department it appeared to the Department that the role of MAAC, Mumbai and SEPL with regard to service tax liability are as follows:

MAAC, Mumbai	Providing taxable services to franchisees all over India including M/s. Synergic Envision Private Limited, Alwarpet, Chennai 600 018 under the category of Franchise services as defined under Section 65 (105) (zze) of the Finance Act. Liable to pay service tax for franchise services only; claim to have paid service tax for Commercial Coaching and Training Services. They cannot cover the franchisees under centralised registration and undertake the responsibility to pay service tax for the taxable services provided by such Franchisees.
Synergic Envision Private Limited, Chennai	Providing taxable services to students under the category of Commercial Coaching and Training Services as defined under Section 65 (105) (zzc) of the Finance Act, but have not paid service tax for the said taxable service, so far.

3. The Department was of the view that since SEPL is imparting the commercial coaching and receiving payments from MAAC for such services provided, the liability to pay service tax lies only on SEPL and

MAAC paying service tax for the commercial coaching services provided by SEPL does not appear to be correct since SEPL is providing the said taxable service as a franchisee on behalf of MAAC. The service tax liability of the MAAC is confined to Franchisee service only and the claim of MAAC that they are centrally registered for service tax to cover the franchisee also appears to be incorrect since such centralised registration is intended only to cover the various branches of the Head Office and not the franchisee.

4. The Department therefore proceeded to arrive at the tax liability of the SEPL on comparing the balance sheet figures and bank statements for the period from 2007-08 to 2011 and found that the balance sheet value was higher as compared to the bank statement. The Department then proceeded to compute the tax liability as per the value shown in the balance sheet and issued a Show Cause Notice No.462/2011, dated 14.10.2011 invoking the extended period of limitation under *proviso 2* Section 73 (1) of the Finance Act, 1994 (Act) along with appropriate interest and proposing imposition of penalties under Section 76, 77 and 78 of the Act. The Show Cause Notice alleged that the Appellant have not paid the service tax liabilities for the period May 2007 to March 2011 and had not filed the service tax 3 returns for the period April 2007 to March 2011 and had also not taken registration since the non-payment of service tax would not have come to light but for the investigation invocation of the extended period of limitation was warranted.
5. Subsequently the Department issued yet another Show Cause Notice No. 11/2013 dated 19.04.2013 upon finding that, on verification of the details for the period April 2011 – June 2012, furnished by SEPL on request, it was seen that the income declared in the balance sheet is more than the value declared in the ST-3 returns. The SCN stated that on perusal of the business partner agreement dated 11.07.2011 between MAAC and SEPL it was noticed, among other things, that it was a Franchisor-Franchisee agreement with the sole responsibility of the Franchisee to complete all assessments for taxes, duties & levies under all the applicable laws and the Franchisor shall in no way, be responsible

for any fines, penalties & prosecution for violation of any provisions of such applicable laws. The Department therefore demanded short paid service tax of Rs.2,46,037/- for the period from April 2011 to June 2012 along with appropriate interest and proposing penalty under Section 76 of the Act. After due process of law, the Adjudicating Authority vide a common Order in Original No. 19 & 20/2014, dated 28.03.2014 confirmed the demand of Rs.15,71,907/- as proposed in Show Cause Notice No.462 / 2011 along with equivalent penalty under Section 78 and penalty of Rs.5,000/- under Section 77 and as regards the Show Cause Notice No.11/2013 *ibid* dropped a demand of Rs.78,171/- and confirmed the demand of Rs.1,67,866/- along with applicable interest and imposed penalty under Section 76 as specified therein. Aggrieved, the Appellant preferred an appeal before the Commissioner of Service Tax (Appeals – II), who, however rejected the appeals. Hence these appeals.

6. Shri N. Bharath Kumar, Ld. Chartered Accountant appearing for the Appellant contended that the impugned order is based on incorrect understanding of the business model. Ld. Consultant submitted that the Appellant was engaged in providing Computer Education and Training Programmes in Graphic, Animation, Cinematic in association with MAAC pursuant to the "Business Partner Agreement" entered on 24.11.2007 governing the period April 2007 to March 2012. It is argued that the demand was premised on erroneously construing the said agreement as a Franchisee agreement drawing attention to the definition of franchise under Section 65 (47) of the Act. He would submit that a bare perusal of the material terms of the agreement, read with the definition of franchisee, would show that it is not a franchisor - franchisee relationship. Drawing attention to clauses 3.1 – 3.7, 4.1 – 4.7 and 6.1 – 6.9 of the agreement it is submitted that MAAC has agreed to provide the course materials and the right to use the same to the Appellant. As the business partner, MAAC provides the certificate to the registered bonafide students and also arranges for Instructor Development and Training Programme for Instructors. The course fee structure should be strictly followed by the Appellant as intimated by MAAC. The Appellant was to perform administrative activities including

processing, enrollments, admission of students and provision of requisite premises infrastructure and qualified instructors for conducting classes. The Appellant cannot use MAAC's Name, Logo, Trademarks or service marks for any purpose without MAAC's prior written approval. The Appellant as a business partner, does not receive any ownership or license rights over MAAC's patents, Programmes or Intellectual Property. The Appellant is permitted to conduct courses other than that of MAAC at its Centres. Ld. Consultant argued that on a conjoined reading of the aforesaid clauses of the agreement it is evident that the Appellant has not being conferred with any representational rights as contemplated under Section 65 (47) read with Section 65 (105) (zzze) of the Act. Reliance was placed on the decision in ***CCE and ST, Chandigarh I v. ESYS Information Technologies Private Ltd., 2025 (4) TMI 373 – CESTAT, Chandigarh.***

7. Ld. consultant further submits that in accordance with the terms of the business partnership agreement the obligation to discharge service tax rested squarely on MAAC and the same was complied with. He draws attention to clause 7 detailing the consideration and payments, pointing out that the Appellant collects the receipts from the students who had enrolled in the courses by paying fee in the form of cash, cheque or Demand Draft in favour of MAAC and the collected amount is deposited into separate bank account of MAAC. MAAC will discharge the service tax liability on the entire course fees and as per the agreement MAAC pays the Appellant 80% of the collection net of service tax after adjustment of debit notes for the supply of course materials, advertising, stationary, Cambridge fees etc. and if any tax deducted at source as applicable. Ld. consultant argued that in effect, the Appellant as a business partner, was rendering the training services along with MAAC who was the principal service provider. It is submitted that the challan copies of the taxes paid by MAAC as furnished by the Appellant demonstrates that the tax liability for the period May 2007 to March 2011 has been duly discharged by MAAC and that there is no loss of revenue to the Government. It was also submitted that the Departmental audit conducted at the premises of MAAC demonstrates that MAAC has been audited for the period even prior to 2011 and there

has been no objections to the discharge of the service tax liability as per the business partner model agreement that has been entered into between the Appellant and MAAC.

8. As regards the demand in Show Cause Notice 11/2013, the Appellant submits that MAAC was subsequently acquired by APTEC Group and the new management has restructured operational framework by substituting the erstwhile business partner agreement with a franchise agreement and consequently with effect from 11.07.2011 it has become a franchise agreement. It is submitted that the Appellant had discharged the service tax on the entire taxable value that is on the 100% of the course fee prior to the disbursement of the Franchise fee to the Franchiser. Therefore, the consideration has already suffered service tax and it is submitted that the demand was confirmed by treating all credits reflected in the Appellant's bank account as taxability receipts without including the income tax refund, loans, interest, dividends etc. revenue has thus erred in mechanically treating the entire bank credits as representing taxable services that Ld. Adjudicating Authority has considered only a few deductions on the basis of a report from the Division AC dated 10.02.2014 which was not provided to the Appellant. It is submitted that therefore there is no further tax liability on the Appellant and the appeals are prayed to be allowed.
9. Ms. G. Krupa, Ld. AR appeared for the Department reiterated the findings in the impugned order. Ld. A.R. also placed reliance on the decision in *Sadhana Education & Empowerment Foundation v. CCE, Pune-III*, 2019 (27) GSTL 257 (Tri-Mumbai).
10. We have heard both sides and perused the material available on record.
11. The issue that arises for our determination is whether the demand of service tax made on the appellant premised on the aforesaid allegations are tenable.
12. We notice that the substance of the allegation against the appellant in the SCN is that the appellant is providing the taxable services of

commercial coaching and training services on behalf of MAAC and the service tax liability of MAAC is confined to Franchisee Services only and the liability to pay tax on the commercial coaching and training services that devolves on the appellant cannot be shifted to MAAC by way of a business agreement.

13. We find that both the Show Cause Notices in the respective appeals are vague and lacks details of the statutory provisions invoked to bring the activities of the appellant within the alleged taxable services rendered. Apart from contending that the appellant is rendering “commercial coaching and training services”, the SCN neither provides the statutory definition amongst the various definitions given under Section 65 indicating what exactly is commercial training or coaching, or what is a ‘commercial training or coaching centre’ as defined thereunder. The show cause notices also do not indicate the exact taxable service, amongst the numerous taxable services indicated under Section 65(105) of the Finance Act, 1994 that would warrant classifying the appellant’s activity under the alleged taxable service and in fact the first Show Cause Notice does not even invoke the charging provision to foist the levy of service tax on the appellant. Surprisingly, the Adjudicating Authority in the OIO or the Appellate Authority in the impugned OIA also has chosen to confirm and uphold the demands respectively, without noticing the fact that the SCN itself is bereft of the statutory basis that is necessary to uphold a valid tax demand. Unless, it is demonstrably shown referring to the specific provisions that the appellant has performed activities that fall under the particular statutory definition of the service and attracts the levy of tax for the reason that it answers to a specific taxable service, an assessment of the liability itself, which has thus been essentially hampered, ought could not have been made in the first place. It is settled position in law that SCN is the basis for the recovery of any demand or imposition of penalties and an SCN that does not put the appellant to notice of the statutory provisions that are attracted to bring the appellant within the ambit of the proposed taxable service and indicate the basis for making a tenable demand of tax, vitiates the proceedings on this ground alone. The Honourable Apex Court in the decision in **CCE, Bangalore v Brindavan**

Beverages (P) Ltd, 2007 (213) ELT 487 (SC), has held that the show cause notice is the foundation on which the department has to build up its case. If the allegations in the show cause notice are not specific and are on the contrary vague, lack details and/or unintelligible that is sufficient to hold that the Noticee was not given proper opportunity to meet the allegations indicated in the show cause notice. The decisions in ***CCE Nagpur v Ballarpur Industries Ltd, 2007 (215) ELT 489 (SC)***, ***Arcelor Mittal Nippon Steel India Ltd v. Assistant Commissioner, 2021-TIOL-2259-HC-AHM-GST***, are also in similar vein. Therefore, absent these elementary requirements in the notices, which effectively renders the SCN fundamentally and incurably defective, and absent any such legally tenable findings, we are of the considered view that the consequential proceedings and demand of service tax made on the appellant, which have been challenged in these appeals, are liable to be set aside on this ground alone.

14. Furthermore, we find that all along it has been the contention of the Appellant that under the business model as per the agreement entered into by the Appellant with MAAC, the Appellant has provided infrastructural support for which it is being paid. The SCN does not let in any evidence to show that the Appellant had been conferred with any representational rights. It has also been contended that the fees are collected by way of direct deposit in the account of MAAC on which MAAC discharges the service tax liability. The said contention has been reiterated in the relied upon statement of the Appellant's Director, and has remained uncontroverted. The SCN itself has conceded that MAAC has not passed on the service tax share to the appellant. Additionally, the appellant had provided the centralised Service Tax Registration details of MAAC. The letter of Maya Entertainment dated 10-11-2011 in response to the query from the Jurisdictional Audit Team at Mumbai, furnishing the service tax details for the appellant's premises at Alwarpet along with the TR 6 challans that also indicate payment under Commercial Training and Coaching Centre Tax collections along with their ST 3 returns for the FY 2010-2011, lend credence to their submissions that the service tax liability stood discharged at the end of MAAC Mumbai with respect to the commercial coaching and training

services rendered that are being sought to be taxed again at the end of the Appellant. We have perused the case law relied on by the Ld. A.R and the facts therein are clearly distinguishable from the facts and circumstances of this case as noticed supra and is hence inapplicable. We notice that, the Board, in its Circular ST-51/13/2002, dated 7-1-2003, while clarifying that any service (transaction) can be taxed only once, even if it appears to fall under two or more categories, has stated that so also Service tax cannot be charged twice on the same service (transactions). Again, the Board, in the context of GTA Service, in the Circular F. No. 341/ 18/2004-TRU (PT), dated 17-12-2004 has stated as under:

“5.7 If service tax due on transportation of a consignment has been paid or is payable by a person liable to pay service tax, *service tax should not be charged for the same amount from any other person, to avoid double taxation*”

It is also seen that a larger bench of this Tribunal, in ***Vijay Sharma & Co v. CCE, Chandigarh, 2010 (20) STR 309 (Tri-LB)*** has observed that providing service being the event of levy, same service cannot be taxed twice. In ***Tamilnadu Electricity Board v. CGST & CE, Salem, (2024) 17 Centax 9 (Tri-Mad)***, a coordinate bench of this Tribunal has observed that various decisions of the judicial fora have laid down the principle that double taxation for the same service activity is not in accordance with law.

Thus, in the peculiar facts and circumstances of this case as noticed supra, and in light of our aforesaid discussions, we are of the considered view that the impugned order is unsustainable and is liable to be set aside. Ordered accordingly.

Appeals are allowed with consequential relief(s) in law if any.

(Order pronounced in open court on 04.05.2026)

(AJAYAN T.V.)
MEMBER (JUDICIAL)

ra

(M. AJIT KUMAR)
MEMBER (TECHNICAL)