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

Service Tax Appeal No. 42511 of 2016

(Arising out of Order in Appeal No. 326 & 327/2016 (STA – I) dated 9.6.2016 passed by the Commissioner of Service Tax (Appeals – I), Chennai)

M/s. ABK-AOT-DOSOKAI **Appellant**
Tamilnadu Centre
3rd Floor, Chateau 'D' Ampa
New No. 37, Old No. 110
Nelson Manickam Road
Aminjikarai, Chennai – 600 029.

Vs.

Commissioner of GST & Central Excise **Respondent**
Chennai North Commissionerate
26/1, Mahatma Gandhi Road
Nungambakkam, Chennai – 600 034.

APPEARANCE:

Shri R. Alwan, Advocate for the Appellant
Smt. G. Krupa, 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. 40951/2026

Date of Hearing: 30.04.2026
Date of Decision: 21.08.2026

Per M. Ajit Kumar,

This appeal is filed by the appellant against Order in Appeal No. 326 & 327/2015 (STA – I) dated 9.6.2016 passed by the Commissioner of Service Tax (Appeals – I), Chennai (impugned order).

2. Brief facts of the case are that the appellant was engaged in providing Japanese language training, management consultancy/ training and renting of its premises and seminar hall. The Department

alleged that Japanese language training was taxable under "Commercial Training or Coaching Services" with effect from 27.02.2010 and that the appellant was not entitled to exemption under Notification No. 24/2004-ST dated 10.09.2004, being not affiliated to the National Council for Vocational Training. The management training imparted under "SS" techniques, for which the appellant had been paying service tax under "Management Consultancy Services", was alleged to be classifiable under "Business Auxiliary Services"**.** The Department further alleged that the value of materials/posters supplied for consideration had not been included in the taxable value and that renting of premises and seminar halls, though declared under "Renting of Immovable Property Services" and "Business Auxiliary Services", was taxable under "Mandap Keeper Services"**.** It was also alleged that the appellant had wrongly availed the threshold exemption in respect of renting of immovable property during 2007-08. Accordingly, Show Cause Notice dated 21.10.2011 and SOD dated 02.04.2012 were issued proposing service tax demands of Rs.31,67,925/- and Rs.1,53,630/-**,** respectively, for the periods in dispute, along with interest and penalties under Sections 76 and 77 of the Finance Act, 1994. The demands were confirmed by the Adjudicating Authority and the appeals filed before the Commissioner (Appeals) were rejected vide the impugned Order-in-Appeal No. 326 & 327/2015 (STA-I) dated 09.06.2016. Hence, the present appeal.

3. The learned Advocate Shri R. Alwan appeared for the appellant and Ld. Authorized Representative Smt. G. Krupa appeared for the respondent.

Submissions made by the Appellant

3.1 Shri R. Alwan the Ld. Counsel for the appellant at the outset gave a brief outline of the activities of the Appellant. He stated that The appellant, originally established as ABK Dosokai (Asia Bunka Kaikan) and subsequently known as ABK-AOTS DOSOKAI, is a registered society, also registered under Section 12AA of the Income Tax Act, 1961 and under the FCRA, 2010. Established to foster Indo-Japanese relations, it has been imparting Japanese language training in South India for over four decades. It also coordinates the annual Japanese Language Proficiency Test (JLPT), provides Japanese language advisory, interpretation and translation services, and is associated with the AOTS Alumni 5S Forum of India for certification of 5S practices. AOTS (Association for Overseas Technical Cooperation and Sustainable Partnerships) is engaged in human-resource development and technical cooperation in developing countries. The appellant is also recognised as an approved Japanese language school in Tamil Nadu by the Electronics and Computer Software Export Promotion Council. He further submitted that:

A. Demand beyond the scope of the Show Cause Notices:

The Show Cause Notices (**SCN**), specifically dealt only with Japanese language training, 5S management training, renting of premises/hall and translation/interpretation services. Several other receipts subsequently brought to tax, including programme/co-ordination fees, secretarial support fees, awards, workshops, seminars, demands relating to faculty/delegation fees, AOTS programmes, co-ordination fees, secretarial support, awards, workshops, in-house training and seminars etc. The Notices, however, neither disclosed the nature of such activities nor set out the basis on which the corresponding receipts were proposed to be subjected to tax, nor were such activities/receipts appropriately described or classified therein. The adjudication, therefore, travelled beyond the scope of the Show Cause Notices, which constitute the foundation of the proceedings. [**CCE & ST Vs A.M. Manickam and others** - 2017 (6) TMI 57 CESTAT CHENNAI]

B. <u>Exemption for Japanese language training:</u>

It was submitted that foreign language training had consistently been treated as exempt under Notification No. 09/2003-ST and Notification No. 24/2004-ST, read with the Board's Circular dated 20.06.2003. The appellant had claimed the exemption under the prevailing notification and had disclosed the same; hence, there was no suppression. The amendment introduced by Notification No. 03/2010-ST was also contended to be inapplicable to the appellant. Alternatively, it was submitted that language training having a recreational/hobby element was covered by the exemption. [**Alliance Francaise De Delhi Vs CST** 2017 (52) STR 268]

C. <u>Value from sale of books/study materials:</u>

It was submitted that the value of books/publications separately sold by the appellant could not be included in the consideration for training services, particularly where such sales were separately identifiable and were also made to persons other than students. [**Kanhaiya Singh Vision Classes Private Limited Vs CST** 2023 (5) TMI 769 Cestat Kolkata].

D. 5S management training:

As regards training in 5S management techniques, the appellant submitted that the activity was undertaken in furtherance of its own organisational objectives and involved training, books and posters relating to 5S concepts. It did not promote the business of, or provide services on behalf of, any third party. Accordingly, the activity could not be taxed under Business Auxiliary Service, further it is beyond the scope of the SCN, [**CST Vs 3i Infotech Ltd., and vice versa** 2023 (8) TMI 746 -SUPREME COURT / **Indian Machine Tools Manufacturers Association Vs CCE** 2023 (9) TMI 815 - CESTAT CHANDIGARH]. It was further contended that the impugned order had introduced a factual premise that the appellant was promoting 5S concepts on behalf of ABK-AOTS Japan, although no such allegation or evidence existed in the Show Cause Notice.

E. Translation/interpretation services:

The learned Counsel submitted that the Show Cause Notice merely stated that translation/interpretation services were taxable under Business Support Service from 01.05.2006, without setting out the nature of the alleged taxable activity or the basis for classification. The appellant contended that these were not outsourced services of the kind contemplated under Section 65(104c) of the Finance Act, 1994 and, therefore, were not taxable under Business Support Service. [**D.O.F.NO.334/4/2006-TRU dated 28.02.2006**]

F. Hall hire/rental and other receipts:

It was submitted that service tax was not leviable on hall hire/rental income in view of the decisions of the Tribunal in **Super Electricals v.**

CGST 2025 (4) TMI 968 – CESTAT Chennai. Moreover since the tax demand on the other services are unfounded, they are eligible for threshold exemption.

G. Demand based merely on trial balance figures:

The appellant submitted that the demands had been quantified on the basis of figures appearing in the trial balance, without establishing that the corresponding amounts represented consideration for taxable services. Reliance was placed on judicial decisions holding that mere accounting entries or amounts reflected in financial statements cannot, without supporting evidence, determine service tax liability. [IM Manpower & Security Pvt. Ltd v. CCE & ST 2024 (2) TMI 14-CESTAT ALLAHABAD]

H. Extended period of limitation:

Finally, the learned Counsel submitted that the appellant was regularly paying service tax on its declared activities and filing returns. There was no positive evidence of fraud, wilful misstatement or suppression of facts with intent to evade tax, such as incriminating statements, invoices, contracts or other material. Any non-payment, if at all, was due to bona fide errors and lack of knowledge of the service-tax implications. The disputes essentially concerned classification, valuation and interpretation of the statutory provisions, which could not by themselves establish suppression or mala fide intent. Hence, the extended period under the proviso to Section 73(1) of the Finance Act, 1994 was not invocable. [CCE Vs Chemphar Drugs & Liniments 1989 (40) E.LT. 276 (SC) / Pushpam Pharmaceuticals Company Vs CCE, Mumbai 1995 (78) E.L.T. 401 (SC) / Indian Hotels Co Ltd. vs.

Commissioner of Service Tax, Bangalore 2014 (36) S.T.R. 1268 (Tri-Ban)].

The ld. Counsel prayed that the impugned order may be set aside.

Submissions made by the Respondent-Revenue

3.2 Smt. G. Krupa, Ld. Authorized Representative, took us through the impugned order and submitted the following on behalf of Revenue.

A. Promotion of 5S Concepts:

The Appellant promoted 5S concepts on behalf of ABK & AOTS, Japan and not on its own account. The consideration received was therefore taxable under Business Auxiliary Service. The additional amount claimed as pure sale was also taxable, as no supporting documents were produced.

B. Translation and Interpretation Charges:

The appellant itself began paying service tax on translation and interpretation services from October 2008 under Business Support Service. The plea that such services became taxable only from 08.04.2011 was not accepted. These activities were held taxable under Business Auxiliary Service for the earlier period and under Business Support Service thereafter, as applicable.

C. AOTS Programme Co-ordination Fee:

The Appellants activity of processing applications and forwarding them to AOTS, Japan for training programmes amounted to support activity. The receipts were therefore classifiable under Business Support Service.

D. Secretarial Support Fees:

The receipts towards administrative and secretarial assistance are taxable under Business Support Service, as infrastructural support service expressly includes secretarial services.

E. Language Fee and Training Programme Receipts:

Japanese language training and training in Japanese management/cross-cultural techniques were taxable under Commercial Training or Coaching Service. Learning a foreign language could enable employment or self-employment, and management training was clearly a coaching/training activity.

F. Hall Hire and Rental Income:

Receipts from hall hire and renting of premises are taxable respectively under Mandap Keeper Service. The Appellant did not substantially dispute the classification before the Original Authority.

G. 5S/TPM Awards and Trophy Income:

Audit fee, entry fee and delegate fee connected with assessment, audit and award activities relating to 5S/TPM practices were taxable under Management or Business Consultancy Service, as the activities related to management practices and human resource/management consultancy.

H. Hiyoshi Workshop Receipts:

The Appellant claimed that receipts were mere reimbursements for organising workshops. Revenue rejected the claim because no documentary evidence was produced to establish reimbursement. The receipts were therefore treated as taxable under Management or Business Consultancy Service.

I. <u>In-house Training and Other Management Seminars:</u>

Receipts from in-house training, Best 5S/TPM seminars, quality control seminars, lean manufacturing, 3MU training, Gemba Kaizen and Best 5S Practices were held taxable under Management or Business Consultancy Service. These programmes as advisory, consultancy or training activities relating to Japanese management techniques.

J. <u>Overall Finding</u>**:**

The Appellant failed to establish non-taxability or reimbursement wherever claimed. Accordingly, the impugned receipts were rightly classified under the applicable taxable service categories and were liable to service tax.

K. The extended period under the proviso to Section 73(1) of the Finance Act, 1994 has been correctly invoked and penalties correctly imposed. The short-payment came to light only during departmental audit and that the assessee had neither declared the activities in its ST-3 returns nor otherwise informed the Department.

l. The ld. A.R. relied upon the following judgments in support of her submissions.

i) **Commissioner of S.T., Delhi Vs IILM Institute for Higher Education**, [2019 (28) GSTL 118 (Tri.-Del.] and,

ii) **Ulhas Vasnt Bapat Vs Commissioner of Centeral Excise, Pune – III** [2015 (37) STR 1034 (Tri – Mumbai)]

The ld. A.R. prayed that the appeal may be set aside

Analysis & Findings

4. We have gone through the appeal memorandum and related papers and have heard the parties to the dispute. The Appellant has raised issues under the following heads, for consideration:

A. Demand beyond the scope of the Show Cause Notices and based on trial balance figures.

B. 5S management training.

C. Hall hire/rental and other receipts.

D. Exemption for Japanese language training & Value from sale of books/study materials.

E. Translation/interpretation services.

F. Other charges in the impugned Order

G. Extended period of limitation and imposition of penalty.

4.1 The plea of limitation ordinarily merits consideration at the threshold, as it may affect the jurisdiction to recover the demand. However, limitation is essentially a mixed question of law and fact, and cannot be decided in isolation from the facts giving rise to the demand. In particular, the relevant starting point and the circumstances, if any, justifying invocation of the extended period have to be established on the facts of each case. Since the present dispute involves contested questions both on merits and on limitation, we consider it appropriate to examine them in sequence. We shall first determine whether the demand is sustainable on merits; if so, whether any part of it falls beyond the normal period of limitation; and, thereafter, whether the Department has established the requisite suppression of facts or wilful misstatement with intent to evade tax so as to invoke the extended period. We accordingly proceed to examine the merits of the demand first.

5. Demand beyond the scope of the Show Cause Notices and based on trial balance figures.

5.1 A submission that the adjudicating authority has travelled beyond the scope of the Show Cause Notice requires us to first examine the charge as set out therein and whether the Notice disclosed the material facts constituting the foundation of the proposed demand, so as to enable the appellant to effectively defend itself. **A distinction must be maintained between "material facts" and "particulars". Material facts are those primary facts which constitute the foundation of the cause of action or defence; particulars are the details by which such facts are elaborated or established.** Different consequences may follow from the omission of material facts and material particulars. Failure to plead a material fact renders the case incomplete, as it omits an essential element of the cause of action or charge and is liable to be set aside on this ground. Such omission is fundamentally different from the omission of a particular or piece of evidence. Material particulars on the other hand are the details necessary to amplify, elaborate and refine the material facts already alleged in the Show Cause Notice. They cannot, however, in themselves be a substitute for a material fact which constitutes the very foundation of the charge. As held by the Hon'ble Supreme Court in **Sopan Sukhdeo Sable Vs Assistant Charity Commissioner** [(2004) 3 SCC 137], the basic rule of pleadings requires the material facts necessary to constitute a complete cause of action to be stated, and there is a distinction between material facts and particulars. [Also see: **Udhav Singh Vs Madhav Rao Scindia** - 1976 AIR 744, 1976 SCR (2) 246 / AIR 1976 SUPREME COURT 744]. The same principle assumes greater significance in tax adjudication, where the Show Cause Notice is the foundation of the proceedings.

5.2 Thus, the test is not whether every piece of evidence or every particular ultimately relied upon was expressly set out in the Notice, but whether the Notice disclosed the essential factual and legal foundation of the charge—the taxable activity, the basis on which it was alleged to be taxable and the material facts necessary to enable the assessee to meet that charge. While particulars and supporting evidence may, in an appropriate case, be developed during adjudication, a material fact which constitutes the very foundation of the proposed liability cannot be introduced for the first time in the adjudication order. Relief cannot be founded upon, nor a demand confirmed on, a case which the assessee was never called upon to answer. **The core test**, **therefore, is: Was the assessee put on notice of the essential factual foundation and legal basis of the particular demand, such that it could reasonably defend itself? If not, the adjudicating authority cannot cure that defect by supplying the missing material facts in the Order-in-Original.**

5.3 We shall examine this charge as we discuss specific issues of the dispute raised by the Appellant by relying on the principles stated above.

6. <u>5S management training.</u>

6.1 As regards 5S management training, the appellant submitted that it was undertaken for its own organisational objectives and involved training and supply of related books/posters, without promoting the business of or acting on behalf of any third party. They were paying Service Tax under the category "Management Consultant Service". Hence, it was not taxable under Business Auxiliary Service and such classification was also beyond the SCN, relying on **CST v. 3i Infotech Ltd.**, [2023 (8) TMI 746 (S.C.)], and **Indian Machine Tools Manufacturers Association v. CCE**, 2023 (9) TMI 815 (CESTAT-Chandigarh). It further contended that the impugned order introduced, for the first time, the allegation that the activity was undertaken on behalf of ABK-AOTS, Japan. Per contra, Revenue, contended that the appellant promoted 5S concepts on behalf of ABK-AOTS, Japan and that the consideration was taxable under 'Business Auxiliary Service'; the amounts claimed as sale proceeds from supplying materials/ posters and other items to their clients during the performance of service is includable in the value of the service in terms of Rule 5(1) of the Service Tax (Determination of Value) Rules 2006.

6.2 We find that the Show Cause Notice dated 21.10.2011 is conspicuously brief and does not set out the factual foundation necessary to sustain the demand. In paragraph 5 thereof, the Department proposed classification of the activity under "Management or Business Consultancy Service" in terms of Section 65(105)(r) of the Finance Act, 1994. However, the ld. Adjudicating Authority, instead of adjudicating the charge so proposed, classified the activity under

"Business Auxiliary Service", apparently relying upon two lines from the appellant's reply stating that, "There was no promotion of any third party. Therefore, invoking Section 65(19)(BAS) is unjustified." Such a course amounts to introducing a new taxable category and a new factual basis for the demand at the stage of adjudication, without affording the appellant an opportunity to meet that case in the SCN.

6.3 Further, the OIO rejected the appellant's claim that Rs.74,785/- represented sale proceeds, merely on the ground that supporting documents had not been produced. There is, however, no discussion of the nature of the receipts on the basis of the evidence available on record, or of the statutory basis for treating them as consideration for a taxable service. **Even assuming that the appellant failed to furnish the requisite documents, an adverse inference could have been drawn only upon a proper examination of the issue, including the material available on record, the efforts made by the Department to ascertain the nature of the receipts, and, where relevant, whether the alleged non-disclosure was deliberate.** The cryptic nature of the SCN, the change in classification at the adjudication stage, and the absence of a reasoned examination of the disputed receipts demonstrate that the demand was not adjudicated on the case put to the appellant. The impugned order, therefore, travels beyond the scope of the SCN on this issue and, being unsupported by a proper examination of the facts and the applicable statutory provisions, cannot be sustained.

7. <u>Hall Hire/Rental and Other Receipts</u>

7.1 The Appellant submits that service tax is not leviable on hall hire/rental receipts, relying on **Super Electricals Vs CGST** [2025 (4) TMI 968 – CESTAT Chennai]. It is further submitted that, if the remaining demands fail, the benefit of threshold exemption would be available. Revenue, on the other hand, contends that the receipts are taxable under 'Mandap Keeper Service', and not under 'Renting of Immovable Property Service' and 'Business Auxiliary Service', as classified by the Appellant.

7.2 We find that the dispute is essentially one of classification and consequent taxability. The receipts were duly accounted for, and Revenue's case is that the services ought to have been classified under a different taxable category. **A mere dispute as to classification, where the transactions and receipts stand disclosed in the records, cannot by itself justify invocation of the extended period.** In the facts of the case, suppression, wilful misstatement or intent to evade payment of tax is not established.

7.3 The demand for the period 2005-06 to December 2010 is covered by the Show Cause Notice dated 21.10.2011. The subsequent notice dated 02.04.2012, covering January 2011 to January 2012, does not include demand towards hall hire/rental of building charges. During the relevant period, Section 73(1) of the Finance Act, 1994 prescribed a normal limitation period of one year, which was extended to eighteen months only with effect from 28.05.2012. The said amendment cannot apply to the periods covered by the present notices. Accordingly, the extended period of limitation is not invocable.

7.4 Even in respect of the demand falling within the normal period, if any, we find that the Show Cause Notice does not set out the material facts and the legal basis necessary to sustain the proposed change in classification. In the absence of such particulars, the noticee is deprived of a reasonable opportunity to meet and defend the case sought to be made against it. The adjudication order cannot travel beyond the allegations in the Show Cause Notice or cure a foundational defect therein. Consequently, the demand in respect of hall hire/rental receipts, being founded on an inadequately pleaded charge, cannot be sustained and is set aside. We hence do not feel it necessary to examine the Order in **Super Electricals** (supra) cited by the Appellant, which basically relates to the question of suppression of facts as during the period of dispute there was a doubt about the levy of service on the renting of immovable property.

8. Exemption for Japanese language training

8.1 Revenue's case is that the Appellants' Japanese language training was taxable under "Commercial Training or Coaching Service" from 27.02.2010 and that the exemption under Notification No. 24/2004-S.T. dated 10.09.2004 was unavailable after the amendment introduced by Notification No. 03/2010-S.T. dated 27.02.2010**,** since the Appellants were not affiliated to the National Council for Vocational Training.

8.2 The effective date of the amending Notification No. 03/2010-S.T. dated 27.02.2010 has already been considered by this Bench in **L.V. Prasad Film & TV Academy Vs Commissioner of GST & Central Excise, Chennai** [Final Order Nos. 40514-40518/2026 dated

22.04.2026 / 2026 (4) TMI 1358 - CESTAT CHENNAI], speaking through one of us, [Shri M. Ajit Kumar. Member (Technical)]. The Appellant by referring to the Gazette of India, was able to demonstrate that Notification No. 3/2010-Central Excise, though dated 27.02.2010, was published only on 22.01.2011 and, in terms of paragraph 2 thereof, came into force from the date of publication. Revenue was unable to rebut this submission. Following the said decision, the amendment cannot be applied from 27.02.2010. The demand covered by the SCN dated 21.10.2011, relating to the period from 2005-06 to December 2010, is therefore unsustainable. **Although this plea was not specifically raised in the appeal, we are of the view that Article 265 of the Constitution mandates that no tax shall be levied or collected except by authority of law**. **The Tribunal cannot, therefore, sustain a levy which is found to be without statutory authority, merely because the issue was not raised by the Appellant. Once the legal position is apparent from the record and within our knowledge, we are bound to give effect to it**.

8.3 Further for the period thereafter, the exemption under Notification No. 24/2004-S.T. was available independently to recreational training institutes**,** defined to include training relating to recreational activities "such as dance, singing, martial arts or hobbies". The Board's Circular No. 59/8/2003-S.T. dated 20.06.2003 likewise recognised foreign-language institutes and hobby classes within the exempted category. Amending Notification No. 03/2010-S.T. narrowed the definition of "vocational training institute" by prescribing NCVT affiliation and designated trades. It did not, however, amend the independent definition of "recreational training institute" under clause (ii) of the Explanation to Notification No. 24/2004-S.T. Consequently, NCVT affiliation was not a condition for availing the exemption under the recreational limb.

8.4 A Coordinate Bench of this Tribunal in **British School of Language Vs Commissioner of Service Tax, Delhi** [017 (4) TMI 97 - CESTAT NEW DELHI / 2017 (4) G.S.T.L. 212 (Tri. - Del.)], examined an issue where the appellants were engaged in imparting coaching of English language, for a consideration. The dispute involved their liability to pay service tax under the category "commercial training or coaching service" in terms of Section 65 (105) (zzc) read with Section 65 (27) of Finance Act, 1994. Relevant part of the order is extracted below:

> "5. We have heard both the sides and perused appeal records. Admittedly, the appellants provided commercial coaching or training service as covered by the tax entry cited above. The dispute is regarding their eligibility to exemption Notification 24/04-ST dated 10.09.2004, and prior to that for Notification 9/2003-ST dated 20.06.2003. The Lower authorities denied the exemption on the ground that no skill is being imparted by the appellant. It was held that the appellants are only engaged in coaching in English language and as such, they are not a vocational training Institute imparting coaching, which will enable the participants directly to gain employment. We note that similar issues came up for decision before the Tribunal. In the case of **Maria Computer Systems Pvt. Ltd. vs. CCE, Bhopal** – 2017 (1) PMI 37 - CESTAT, New Delhi, the Tribunal observed as below:-
>
> > *4. The service of commercial coaching and training services are covered in the statute for payment of service tax. However, vide Notification No.9/2003-ST, dated 20.06.2003 as well as by the succeeding Notification No.24/2004-ST, dated 10.09.2004, exemption has been granted as follows:-*

> *"In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable services provided in relation to commercial training or coaching, by, -*
>
> *(a) a vocational training institute; or*
> *(b) a recreational training institute,*
> *to any person, from the whole of the service tax leviable thereon under section 66 of the said Act. Explanation.- For the purposes of this notification,-*
>
> *(i) "vocational training institute" means a commercial training or coaching centre which provides vocational training or coaching that impart skills to enable the trainee to seek employment or undertake self-employment, directly after such training or coaching;*
> *(ii)*
> *(ii) "recreational training institute" means a commercial training or coaching centre which provides training or coaching relating to recreational activities such as dance, singing, martial arts or hobbies."*

In the Explanation to the Notification, the term "Vocational Training Institute" has been defined as one which provides vocational training, which will enable the trainee to seek employment or undertake self-employment directly after such training or coaching. ***It is common knowledge that acquiring skills in English language definitely improves better chance to seek employment. In this view of things, it is possible to say that the services rendered by the appellant could be covered by the Notification****. However, the discussions in the impugned order centered around the circular dated 20.06.2003, which was issued to clarify the scope of the above exemption. Imparting training in foreign language has been cited as example of a vocational training institute. However, the whole discussion in the impugned order revolves around the question whether English is a foreign language or an official language in India. Without attempting to decide the question, which was triggered by the circular rather than by the statute or the Notifications, we find that the benefit of exemption for coaching in English language stands extended by the Tribunal in some of the cases cited by appellant. But there is also a contra* *decision of the Tribunal, wherein the benefit stands rejected for English language classes. In this connection, we find that the Notification No.24/2004-ST has been further amended vide Notification No.03/2010-ST, dated 27.02.2010 in which the term vocational training institutehas been taken to mean industrial training institute of an industrial training centre affiliated to National Council for Vocational Training. The contra decision has been delivered in the context of the amended provisions of the Notification. It has been held by the Tribunal in the case of* ***Actor Prepares Vs.CST, Mumbai*** *[2014 (33) STR 546 (Tri.-Mumb,)] that the above amendment made in Notification No.24/2004-ST cannot be taken with retrospective effect. The demand in the present case covers the period from April, 2005 to March, 2008 and is prior to the date of amendment, i.e., 27.02.2010. As such, the amendment can have no effect for the period of demand."*

(emphasis added)

6. Further, the Tribunal in **M/s. Alliance Francaise De Delhi Versus C.S.T., Delhi** – [2017 (52) S.T.R. 268 (Tri.-Del.) / 2017 (3) TMI 119 - CESTAT, New Delhi], **<u>held that imparting training in French language will make the institute vocational training institute.</u>** Reliance was placed on the earlier decision of the Tribunal in **Darshan English Classes vs. CCE & ST, Rajkot** - 2015 (39) STR 169 (Tri. Ahmd.). We also note that the appellants did submit various supporting evidence to illustratively show that the participants did gain employments as a consequence of training imparted by the appellant.

7. Considering the decisions of the Tribunal, as well as the facts of the present case, we hold that the appellants will be eligible for exemption under Notification No.9/2003, 24/2004 except for the period 01.07.2004 to 09/09/2004 during which no exemption Notification was available.

In **Alliance Française De Delhi Vs CST** [2017 (52) S.T.R. 268 (Tri.-Del.)], cited by the Appellant, the Tribunal also noticed the recreational purpose for which foreign-language courses may be undertaken. Since the expression "such as" is illustrative, language training undertaken as a hobby or for recreation is not excluded from recreational training merely because it may also impart vocational or soft skills.

8.5 In the present case, the show cause notice proceeds solely on the vocational character of the courses and neither considers nor establishes that the training was not undertaken for recreational or hobby purposes. **The demand, therefore, cannot be sustained by examining only the vocational limb of the exemption while disregarding the independent exemption available to a recreational training institute.**

8.6 The decisions relied upon by Revenue in **IILM Institute** (supra) and **Ulhas Vasant Bapat** (supra), concern commercial training or coaching centres and the vocational aspect of training intended to impart skills enabling the trainee to seek employment or undertake self-employment. They do not consider the distinct question arising in the present case, namely, whether the Appellant's language courses fall within "recreational training institute" under clause (ii) of the Explanation to Notification No. 24/2004-S.T.. Those decisions are, therefore, distinguishable on facts and in the context of the exemption claimed.

8.7 We accordingly hold that the Appellants are entitled to the benefit of Notification No. 24/2004-S.T. as amended**,** and the demand under this head is liable to be set aside.

9. Translation/interpretation services:

The Appellant has submitted that the Show Cause Notice merely stated that translation/interpretation services were taxable under Business Support Service from 01.05.2006, without setting out the nature of the alleged taxable activity or the basis for classification. We agree. A bald statement cannot be the basis of a levy. The material facts are missing and the charge for this head, is liable to be set aside on this ground, which we do.

10. Other charges in the impugned Order.

We find that the impugned Order has dealt with issues under heads such as programme/co-ordination fees, secretarial support fees, awards and trophy income, workshops, etc., without addressing the Appellants' submission that the SCN did not set out the material facts necessary to establish the taxable character of these activities, in the main SCN dated 21.10.2011**.** The Annexure to the second SCN dated 02.04.2012 merely mentions certain heads/particulars, without disclosing the nature of the underlying activities or the basis for treating the corresponding receipts as consideration for taxable services. The Appellants were thus denied a meaningful opportunity to meet the allegations. By examining the nature and taxability of these receipts without a corresponding allegation or factual foundation in the SCN, the adjudicating and appellate authorities have travelled beyond the scope of the SCN**.** Such a fundamental defect cannot be cured by remanding the matter for a fresh adjudication. The demands on these counts for the above activities are, therefore, unsustainable.

11. Extended period of limitation and imposition of penalty.

Apart from the impugned Order failing on merits, we find that the SCN is deficient in material particulars on most of the issues and fails to substantiate the allegations raised therein, as discussed hereinabove. It also does not disclose any deliberate act or omission on the part of the Appellant with intent to evade payment of tax. Consequently, the demand is unsustainable even for the normal period and, a fortiori, under the extended period of limitation. The question of imposition of penalty, therefore, does not arise. The impugned Order merits to be set aside.

Conclusion

12. In view of the foregoing discussion, the impugned order is set aside and the appeal is allowed with consequential relief, if any, in accordance with law. The appeal is disposed of accordingly.

(Order pronounced in open court on 21.08.2026)

Sd/-	Sd/-
(**AJAYAN T.V.**)	(**M. AJIT KUMAR**)
Member (Judicial)	Member (Technical)

Rex