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CUSTOMS. EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066
CUSTOMS APPEAL BRANCH

Appeal No. ST/529 /2006 Date 02/09/2008

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
DOON INSTITUTE OF INFORMATION TECHNOLOGY
PVT LTD
4-PRITAM ROAD, DEHRADUN.

DOON INSTITUTE OF INFORMATION TECHNOLOGY PVT LTD Appellant

Vs

C.C.E.MEERUT I Respondent

I am directed to transmit herewith a certified copy of **Final order** No. ST/231/2008 **Customs** dated 07.05.08 passed by the Tribunal under Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax

Assistant Registrar

(Customs Appeal Branch)

Copy to :

1. Respondent

   C.C.E.MEERUT I

   MANGAL PANDEY NAGAR. MEERUT.
2. Adv. / Consult

   MR.P.R.MULLICK

   27-RACE COURSE,DEHRADUN.
3. S.D.R.
4. J.C.D.R.
5. Bar association, CESTAT, New Delhi
6. M/s. Deeparchi Publications, M-93, Marg. 46, Saket, New Delhi 110017
7. M/s Centax Publictions (P) Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
8. Excise & Customs cases, B-37, Sector -1, NOIDA - 201301 Gautam Budh Nagar, (U.P.)
9. Raghuraman's 44-B, Regal Flat,Shipra Suncity, Indirapuram - 201010,Ghaziabad, DT, U.P.
10. Nidheshak publications, I.P.Estate, new Delhi
11. Taxmann Allied Service Pvt Ltd., 21/35, West Punjabi Bagh, New Delhi - 110026
12. Commercial Laws of India Pvt Ltd Post Bag No. 1033, No.70(Old No. 88), Thyagaraya Road, T. Nagar,Chennai 60017
13. Taxindiaonline.com Pvt.Ltd, B-XI/8183,Vasant Kunj, New Delhi - 110070
14. Easy Service Tax Online Dot Com Pvt. Ltd. 407A, Iscon Mall, Above Star India Bazar, Satellite Road, Ahmedabad - 15
15. Office Copy
16. Guard file

Assistant Registrar
(Customs Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

West Block No. 2, R.K. Puram, New Delhi – 110 066.
Principal Bench, New Delhi

COURT NO. III
Service Tax Appeal No. 529 of 2006

[Arising out of the Order-in-Appeal No. 139/CE/MRT-I/ 2006 dated 18/08/2006 passed by The Commissioner (Appeals), Customs & Central Excise, Meerut – I.]

For Approval and signature :
Hon'ble Shri M. Veeraiyan, Member (Technical)
Hon'ble Shri P.K. Das, Member (Judicial)

1.	Whether Press Reporters may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	:	M.
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	:	M.
3.	Whether their Lordships wish to see the fair copy of the order?	:	M.
4.	Whether order is to be circulated to the Department Authorities?	:	yes

M/s Doon Institute of Information Technology Pvt. Ltd.	]]	Appellant

Versus

CCE, Meerut – I	Respondent

Appearance

Shri R.P. Mulick, Advocate – for the appellant.

Shri R.K. Verma, Authorized Representative (DR) – for the Respondent.

CORAM:**Hon'ble Shri M. Veeraiyan, Member (Technical)**
Hon'ble Shri P.K. Das, Member (Judicial)

DATE OF HEARING : 07/05/2008.

Final Order No. 57/231/08 Dated : 7/5/08

Per. P.K. Das :-

The issue involved in this case is as to whether the computer training institute providing vocational training would be entitled to benefit of exemption Notification No. 24/2004-ST dated 10th September 2004 as amended for the period from 10/09/2004 to 15/06/2005.

2. The relevant facts of the case as per record, in brief are that, the appellants are engaged in running Computer Training Institute as franchisee of NIIT. The appellant filed refund claim on the ground that at the instance of Central Excise officers, they paid service tax during the above period, when there was exemption from payment of tax by Notification No. 24/2004-ST dated 10th September 2004 as amended by Notification No. 19/2005–ST dated 7th June 2005 with effect from 16/06/2005. The adjudicating authority rejected the

refund claim, which has been upheld by the Commissioner (Appeals).

3. The learned advocate on behalf of the appellant submits that the appellant was providing computer training to enable the trainee to seek employment or undertake self employment, directly after such training, which comes under the heading of "a vocational training institute" and covered under Notification No. 24/2004 – ST dated 10th September 2004. He further submits that in view of the amendment by Notification No. 19/2005-ST dated 7th June 2005 effective from 16/06/2005 of Notification No. 24/2004 (supra) such exemption benefit was not available to them, thereafter.

4. The learned DR reiterates the findings of the Commissioner (Appeals). He submits that Notification No. 9/2003-ST dated 20th June 2003 exempted the tax on "a computer training institute". He further submits that Notification No. 24/2004-ST dated 10/09/04 excluded the words "a computer training institute" and therefore appellant is not eligible for exemption. He further submits that the amending Notification No. 19/2005 –ST dated 7th June 2005

clarified that the said notification shall not apply to the "computer training institute". So, refund was rightly rejected.

5. After hearing both the sides and on perusal of the records, we find that "commercial training or coaching" services were brought into the service tax net w.e.f. 1st July 2003. Notification No. 9/2003-ST (supra) effective from 01/1/2003 exempted the taxable services provided in relation to commercial training or coaching, by a vocational training institute, a computer training institute or a recreational training institute. The said exemption benefit was extended time to time. Thereafter, Notification No. 24/2004-ST dated 10/9/2004 exempted the taxable services in relation to commercial training or coaching, by a "a vocational training institute", or "a recreational training institute". For purpose of proper appreciation, the relevant portions of notifications are reproduced below :-

(A) Notification No. 9/2003-ST dated 20th June 2003 :-

"In exercise of the powers conferred by 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 ;

(b) a computer training institute ; or

(c) a recreational training institute ;

to any person, from the whole of the service tax leviable thereon under sub-section (2) of 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 coaching or training that impart skills to enable the trainee to seek employment or undertake self-employment, directly after such training or coaching ;

(ii) "computer training institute" means a commercial training or coaching centre which provides coaching or training relating to computer software or hardware ;

(iii) "recreational training institute" means a commercial training or coaching centre which provides coaching or training relating to recreational activities such as dance, singing, martial arts, hobbies."

(B) Notification No. 24/04-ST dated 10 September 04 :-

"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) "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".

6. The main contention of the revenue is that the words "a computer training institute" have not been incorporated under Notification No. 24/2004-ST (supra) and therefore the appellant is not eligible to avail the exemption benefit. We do not agree with the submission of the learned DR. In the present case, the appellant claimed that they were providing computer training to enable the trainee to seek employment after such training, which is come under "vocational training institute" under Notification No. 24/2004 (supra). We find that there is no dispute that the appellant is a computer training institute providing commercial training to enable the trainee to seek employment or undertake self employment, directly after such training. Therefore, the service provided by the appellant satisfies the Explanation [I] of the said notification and it is within the purview of "vocational training institute".

7. It is contended by the learned DR that the appellant is running a computer training institute and not a vocational training institute. It is further contended that Notification No. 24/2004-ST (supra) had not extended exemption benefit to a computer training institute, which was specifically included in

earlier Notification No. 9/2003 – ST (supra). In our view, computer training institute is providing vocational training, it would become vocational training institute and covered under Explanation (1) of Notification No. 24/2004-ST (supra). It is well settled that exemption notification is not only to be construed strictly but also reasonably having regard to the language employed therein. The notification shall be read as a whole, not in part. We also noted that the amendment of Notification No. 24/2004 – ST (supra) by Notification No. 19/2005 – ST dated 7th June 2005, whereby

> "this notification shall not apply to the taxable services provided in relation to commercial training or coaching by a computer training institute".

8. The learned DR contended that retrospective effect should be given to the amended notification No. 19/2005 – ST(supra). It is well settled that unless it is specified otherwise, an exemption notification shall come into effect on the date of its issue. So, the submission of the learned DR has no merit.

9. In view of the above discussion, we find that the impugned order is not sustainable and accordingly, it is set aside. The appeal is allowed with consequential relief.

(Dictated and pronounced in open court)

(M. Veeraiyan)
Member (Technical)

(P.K. Das)
Member (Judicial)

PK