CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH, COURT NO. 3

Service Tax Appeal No.51185 of 2020

[Arising out of Order-in-Original No.14/2020-ST dated 22.07.2020 passed by the Additional Director General (Adjudication), Directorate General of GST Intelligence (Adjudication Cess), New Delhi]

M/S.Canam Consultants Ltd. **APPELLANT,**
SCO 83-84, Sector 17 D,
Chandigarh-160 017.

Versus

The Principal Director General **RESPONDENT**
(Adjudication) Directorate General of GST Intelligence (Adjudication Cess),
New Delhi West Block No.-VIII,
Wing No.6, 2nd Floor, R.K. Puram,
New Delhi-110 066.

Appearance:
Present for the Appellant : Shri B.L. Narsimhan, Shri Kunal Agarwal and Shri Sudeep Bhangoo, Advocates
Present for the Respondent: Shri Aejaz Ahmad, Authorised Representative

CORAM:
HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)
HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

Final Order No.50847 /2025

Date of Hearing :28.05.2025
Date of Decision:05.06.2025

BINU TAMTA:

1. The issue involved in the present appeal is whether the services rendered by the appellant to the foreign universities amounts to "export of service" as claimed by the appellant or "intermediary service" as alleged by the Revenue. The issue is no longer *res integra* as agreed by both sides. Learned counsel for the appellant has referred to a series of decisions as under:-

1. **Sannam S-4 Mangaement Services India Pvt. Ltd. VS. The Commissioner of CGST, Delhi East Commissionerate**[1]

2. **TC Global India Pvt. Ltd. VS. Additional Director General, DGCEL, New Delhi**[2]

3. **Medway Educational Consultant Pvt. Ltd. VS. Commissioner, CGST Commissionerate, CGST Delhi**[3]

4. **Oceanic Consultants Pvt. Ltd. VS. Commissioner of Central Excise and Service Tax, Chandigarh – I**[4]

5. **Commissioner of Central Excise and Service Tax, Chandigarh I VS. M/s Oceanic Consultant Pvt. Ltd**[5]

6. **K.C Overseas Education Pvt.Ltd. VS. Union of India.**[6]

7. **IDP Education India Pvt Ltd VS. Union of India & Ors.**[7]

8. **Enbee Education Centre Pvt. Ltd. VS. Commissioner of CE & ST – Vadodara – I** [8]

9. **Pyramide Services Pvt Ltd Versus Commissioner of Central Excise, Goods & Services Tax, Chandigarh**[9]

10. **Krishna Consultancy VS. Commissioner of CGST, Nagpur**[10]

11. **Pioneer Immigration and Educational Consultancy Pvt. Ltd. VS. Commissioner of Central Excise and Central Goods & Services Tax, Ludhiana**[11]

12. **Sunrise Immigration Consultants Private Limited VS. CCE & CGST, Chandigarh**[12]

13. **Valmiki Consultants VS. CC, Central Tax, Hyderabad**[13]

14. **Sunrise Immigration Consultants Pvt Ltd VS. CCE & ST, Chandigarh**[14]

15. **Study Overseas Global (P) Limited VS. CST Delhi**[15]

[1] 2025 (5) TMI 157 – CESTAT
[2] 2024 (12) TMI 1194 - CESTAT
[3] 2024 (3) TMI 1178 – CESTAT
[4] 2024 (8) TMI 399 – CESTAT
[5] Appeal No. 4969/2025 Order dated 04.04.2024
[6] Writ Petition No. 3914 of 2024 dated 03.03.2025
[7] 2025 (5) TMI 729 – Bombay High Court
[8] 2024(12) TMI 80 – CESTAT
[9] 2025 (3) TMI 573 – CESTAT
[10] 2023 (10) TMI 503 – CESTAT
[11] 2024 (9) TMI 841 – CESTAT
[12] 2024 (9) TMI 409 – CESTAT
[13] 2018 (11) TMI 1085 – CESTAT
[14] 2018 – TIOL – 1849 – CESTAT
[15] 2017 (5) TMI 887 – CESTAT

16. IDP Education India Pvt. India VS. Additional Director General of Central Excise Intelligence, New Delhi[16]

2. We would like to refer to the observations made in the recent decision by us in the case of **M/s.Sannam S-4 Management Services India Pvt. Ltd. Vs. Commissioner of CGST, Delhi East Commissionerate**[17] **,** which is as under:-

> "8. The appellant has entered into an agreement with the foreign universities/foreign group entities, whereby it is evident that the services rendered by the appellant is for promotion and marketing of foreign universities among the Indian students. Therefore, the foreign universities or group entities are service recipients which are located outside India. The consideration is received by the appellant from the foreign universities or group entities in convertible foreign exchange. In so far as the Indian students are concerned, the appellant has no agreement with them and no consideration is received from the Indian students and there cannot be any taxable service without any consideration. Thus, the Indian students cannot be termed as service recipients of the services provided by the appellant. Applying Rule 3 of POPS Rules, the foreign universities, being the service recipient located outside the taxable territory cannot be subjected to service tax on the simple principle as provided in section 66B of the Act that for service tax to be levied in terms of Chapter V of the Act, the service has to be provided within the taxable territory. Coming to the next aspect of the services being provided outside the taxable territory, where the service provider is in India and the recipient of service is located outside India, the Apex Court in **All India Federation of Tax Practitioners versus Union of India**[18] observed that in normal parlance, it would be 'export of service'. Further, it has been settled that the destination has to be decided on the basis of place of consumption and not the place of performance of service as laid down by the Larger Bench in **Paul Merchants Ltd versus CCE, Chandigarh**[19] and affirmed by the High Court of Delhi in **Verizon Communication, India Pvt Ltd versus Assistant Commissioner, ST, Delhi**[20]. Hence we reiterate the conclusion that the appellant satisfies the criteria as per Rule 6A of the Service Tax Rules, 1994 and cannot be imposed service tax on the services provided.
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> 9. Coming to the second issue, whether the appellant can be treated as an 'intermediary', we may refer to its definition under Rule 2(f) of the POPS Rules which provides that a person being a broker or agent, must arrange or facilitate the provision of a service or supply of goods in order to qualify as an

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[16] 2021 (10) TMI 1174 – CESTAT
[17] Service Tax Appeal No.50666 of 2024 with ST/50667/2024, ST/50668/2024 Final Order No.50537-50539/25 dt.29.4.25
[18] 2007 (7) STR 625 (SC)
[19] 2012(12) TMI 424 –CESTAT-DEL-LB
[20] 2018 (8) GSTL 32 (Del.)

'intermediary' under the Rules. One of the conditions is that the provision of such service shall not be made by that person himself, on his account. In other words, an intermediary is a person who while dealing with a third-party, acts for another person. The learned Counsel on the scope of 'intermediary services' has relied on the decisions of the Punjab and Haryana High Court in **Genpact India Pvt. Ltd. Vs. Union of India**[21] and the Delhi High Court decision in the case of **Ernest and Young Ltd. Vs. Addl. Commissioner, CGST** [22] with reference to the definition of 'intermediary services' under section 2(13) of the IGST Act which is *pari materia* with the definition of 'intermediary services' in Rule 2(f)of the POPS Rules. The principle enunciated was that the services rendered by the petitioner are not as an intermediary and therefore, the place of supply of the services rendered by the petitioner to overseas is required to be determined on basis of the location of the recipient of the services and since the recipient of the services is outside India, the professional services rendered by the petitioner would fall within the scope of definition of 'export of services' as defined under Section 2(6) of the IGST Act. Further, reliance has been placed on the decision of the Mumbai Bench of the Tribunal in **Chevron Phillips Chemicals India P. Ltd** [23]**,** which has been affirmed by the Apex Court rejecting the appeal filed by the Commissioner of Central Tax & Central Excise, Navi Mumbai.

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15. Following the decision referred above interpreting the provisions of law, we hold that the services rendered by the appellant to the foreign university/foreign group entity do not fall under the category of "intermediary services" and the appellants are eligible for the benefit of 'export of services'. In that view, the demand confirmed by the impugned order is unsustainable and is hereby set aside. All the three appeals are, accordingly, allowed."

3. From the facts of the present case, we find that the appellant is also engaged in the business of promoting courses of foreign universities among the students willing to perform higher studies abroad. For the said purpose, the appellant has entered into an agreement with different foreign universities, whereby the appellant enlightened the prospective students in India with the opportunities abroad and the courses offered by the universities. The nature of activities performed by the appellant as per the agreement with the foreign universities involves:-

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[21] 2022 (11) TMI 743 – P & H High Court
[22] 2023 (3) TMI 1117 –Delhi High Court
[23] 2022 (12) TMI 1489 –CESTAT Mumbai

a. Promotion of universities in seminars or education fairs organized by schools;
b. Counselling of prospective students about suitable courses and universities depending upon their profile;
c. Making students aware of other costs associated with staying and studying abroad;
d. Forwarding profiles of students to the admission department of the universities; and
e. Upon finalizalition of admission, conveying the same to the student and ensuring that relevant fee is paid by the student who applies for the relevant visa.

4. Learned counsel for the appellant has also referred to the modus operandi, which is adopted by the appellant, where on the enrolment of the students in the universities, the appellant raises invoices on the universities for its fee in lieu of the promotional and marketing activities undertaken by it. Such fee is received from the foreign universities in convertible foreign exchange and as a result, the services provided by the appellant being placed in India and the service recipient, the foreign universities being situated outside the taxable territory, the services provided by the appellant are non-taxable. It is also the submission that the income received from the foreign universities and the transaction has been reflected in the ST-3 returns as 'exports'. Show cause notice dated 22.08.2017 was proposed demand of duty of Rs.14,86,00,571/- for the period July, 2012 to June, 2017, on the allegation that the appellant has been carrying out the activities of arranging/facilitating the enrolment of the students in the foreign universities and for which, they have received commission. Thus, according to the Revenue, the appellant is operating as an 'intermediary' in terms of Rule 2(f) of Place of Provisions of Service Rules, 2012. On adjudication, the learned Commissioner granting the benefit of cum-tax duty calculated the service tax amount as Rs.13,05,42,207/- alongwith interest and penalty by invoking the extended period of limitation. Hence, the present appeal has been filed.

5. As discussed above, the issue has already been decided in favour of the appellant in large number of decisions, taking a consistent view, that the appellant cannot be categorized as an 'intermediary' and the services rendered by him for promotion and marketing of foreign universities was on principal to principal basis. The services rendered by the appellant in India are received by the foreign universities outside India, for which commission is received in foreign currency is 'export of service' and consequently, no service tax is leviable thereon. The present appeal is, squarely covered by the decisions referred to and in that view, the impugned order deserves to be set aside and the appeal is, accordingly, allowed.

[Order pronounced on 5th June, 2025]

(Binu Tamta)
Member (Judicial)

(Hemambika R. Priya)
Member (Technical)

Ckp.