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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/605 /2008 - CU[DB] Date **23/04/2012**
ST/249/2011

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

To :
WLC COLLEGE INDIA LTD

C 56 A/26, SECTOR 62, INSTITUTIONAL AREA, NEAR
HDFC BANK, NOIDA, GAUTAM BUDH NAGAR.

WLC COLLEGE INDIA LTD Appellant

Vs

C.S.T. DELHI Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/A/328-29 2012 CU[DB]** dated 28.03.12 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.S.T. DELHI
17-B, I.P. ESTATE, IAEA HOUSE,
NEW DELHI.

2. Adv. / Consult
MR.RAJEEV DIMRI,BMR&ASSOCIATES
1ST FLOOR, THE GREAT EASTERN CENTRE,
70, NEHRU PLACE, N DELHI.110019

3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New Delhi
6. M/s Centax Publictions Pvt Ltd.,1512-B, Bhishm Pitamah marg,Opp. ICICI Bank of Defence Colony, New Delhi-3
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd, LAW House,1-8,Sector - 10, Faridabad 121003 (Haryana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file

Assistant Registrar
(Customs Appeal Branch)

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Court No.III

ST/Appeal Nos. 605/08 & 249/2011

(Arising out of order in original No.4/06-Ad.IN dated 9.3.06 passed by the Commissioner of Customs & Central Excise, Hyderabad)

Date of Hearing: 28.3.2012

For Approval and signature:

Hon'ble Mrs. Archana Wadhwa, Member Judicial
Hon'ble Mr.Mathew John, Technical Member

1.	Whether Press Reporters may be allowed to see The order for publication as per Rule 27 of the CESTAT(Procedure) Rules, 1982?	Yes
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) rules, 1982 for publication in any authoritative report or not?	NO
3.	Whether their lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	NO

M/s WLC College India Ltd — Appellant

Vs

CST, Delhi — Respondent

Appeared for the Appellant: Shri V.Shekhar, Sr Advocate
Appeared for the Respondent: Shri K.K. Jaiswal , DR

Coram: **Hon'ble Mrs. Archana Wadhwa, Member(Judicial)**
Hon'ble Shri Mathew John, Member (Technical)

Final ORDER No. ST/A/ 328 – 329/12- Cus

Per Mathew John:

In these proceedings, two appeals are being considered. Appeal No. 605/08 relates to the period 1st July 2003 to 31 March, 2007 and in Appeal No. 249/11 relates to the period 1st October, 2007 to 30th September, 2008.

2. The appellants are engaged in providing voluntary training and coaching in the field of 1) Business 2) Fashion Technology 3) Advertisement and Graphic Design 4) Media 5) Hospitality and 6) Hospital Administration. They have branches in ten cities across the country at the following places namely Delhi, Madras, Kolkatta, Bangalore, Hyderabad, Pune, Ahmedabad, Chennai and Lucknow The appellants admit that the training provided by them will fall within the definition of commercial training or coaching service as defined under Section 65(26) and 65(27) and 105 (zz) of Finance Act, 1994. However, they have been contesting that Notification No. 9/03 dated 30.6.03 exempting taxable service provided by Vocational Training Institutes is available for the impugned training provided by them. This Notification was in force from 1st July, 2003 to 30th June , 2004. Thereafter, the exemption was again provided by Notification No. 24/04-ST dated 10.9.04. During the interim period of 1st July, 2004 to 9th September, 2004, the appellant have paid service tax under the said category. The dispute in the present appeal is for the period covered by Notification No. 9/03-ST and Notification No. 24/04-ST. The Revenue was of the view that the training provided by the appellants would not be covered within the meaning of 'vocational training and coaching' as provided in the concerned notification.

3. Briefly stated, the case of the Revenue has been that the appellants are providing training to persons who have education at least upto 12th standard and such training provided to persons with such education cannot be considered as vocational training. According to Revenue, only training in areas like welding, carpentry etc where the level of education required is low, qualifies to be 'vocational training'.

4. On account of the said argument, demand of Rs. 3,52,60,500/- as service tax has been confirmed against the appellant along with appropriate interest and penalties.

5. The Counsel for the appellants submits that the question whether the impugned training would qualify to be 'vocational training' has been decided by the Tribunal in their own case in respect of their branch at Bangalore vide order reported at 2007 (8) STR 475. The Counsel further submits that the matter was examined in great detail by the Delhi Bench of Tribunal in the case of another appelant providing such training in the case of Ashu Export Promoters Pvt Ltd Vs CST New Delhi 2012 (25) STR 359. It is his submission that these two decisions have examined the issue at great length with reference to various documents published and also pronouncements made by the Government of India decision. He would like to rely on the said decision and prays for the benefit of said notification by setting aside the impugned demand.

6. The learned AR for revenue reiterates the findings in the order of Commissioner confirming the demand but he is not able to make out

any distinction how the facts in this case are different from the facts of the two decisions cited above.

7. We have considered arguments of both sides and we find that this matter has been already examined at length by two different Benches of the Tribunal and final decisions given to the effect that the training will qualify as 'vocational training'. Therefore, relying on the said decisions, we allow the appeal filed by the appellants with consequential relief.

(Order dictated and pronounced in the open Court.)

(MATHEW JOHN)
Member (Technical)

(ARCHANA WADHWA)
Member (Judicial)

MPS*