IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. III

Service Tax Appeal No. 378 /2012

[Arising out of Order-In-Appeal No. 09/BPL/2012 dated 31.01.2012 passed by Commissioner of Customs & Central Excise , (Appeals), Bhopal]

Anurag Soni. **Appellants**

Vs.

Commissioner of Central Excise **Respondent**
Bhopal

Appearance:
Shri Himanshu Khemka, Advocate for the Appellants
Ms. Neha Garg, DR for the Respondent

CORAM:

Hon'ble Mr S K Mohanty, Member (Judicial)
Hon'ble Mr. B Ravichandran, Member (Technical)

Date of Hearing Decision: 21.02.2017

FINAL ORDER NO. 52009 /2017

Per B Ravichandran:

The applicant is aggrieved by the order dated 31.1.2012 of Commissioner (Appeals), Bhopal. This is second round of litigation. The appellants are engaged in providing English and other language coaching to students. The dispute in this case is relating to their entitlement of exemption from Service Tax available to vocational training institutes in terms of Notification No. 9/2003- ST and

24/2004 -ST. The original authority vide his order dated 10.6.2011, which was passed as per the directions of the Tribunal's Final Order. No. ST/08/2010-Cu dated 15.3.2010, held that the appellants are eligible for said exemptions. The service tax liability of Rs. 30,702/- for the period of 1.7.2004 to 9.9.2004 during which period no exemption for vocational institutes was available was upheld. On appeal, filed by the Revenue, vide the impugned order, the learned Commissioner (Appeals) held that the appellants are not eligible for exemption in terms of said notifications. He held that English can not be treated as foreign language and coaching in English language cannot be considered as vocational training.

2. Learned Counsel appearing for the appellant submitted that the status of English language is not a point of dispute in the present cases. It is the nature of training imparted by the appellant that is relevant for exemption as per the said notification. They were imparting training in English language speaking which directly results in employment opportunity to the participants or helps them in self-employment. Impugned order fell in error in examining the status of English – whether it is foreign or Indian language . Learned Counsel relies on the decision of Tribunal in the case of ***Darshan English Classes vs. CCE, Rajkot [2015 (39) STR 167 (Tri-Ahmd)*** in support of this case.

3. Learned AR reiterated the findings in the impugned order.

4. We have heard both the sides and perused the appeal records.

5. Notifications No.9/2003 and 24/2004 exempts vocational training institutes from payment of Service Tax under tax entry 'commercial training or coaching'. "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. Admittedly, the appellants are engaged in providing coaching in English, French and German language skills. Training included improving the skills of pronunciation, manner of speaking etc. The original authority recorded that this sort of training imparted by the appellant helps in getting employment for the participant in Multi National Companies and various Corporations/ Institutions where improved particular skill in speaking is a required qualification. We are in agreement with the findings recorded by the original authority. The impugned order has at length examined the provisions of section 3(2) of the Official Languages Act, 1963, Article 343(2) of Constitution of India and the status of English in India. We find that the whole discussion is misplaced and irrelevant to decide the taxability of the appellant under 'commercial coaching or training'. As rightly contended by the appellant, it is not the status of the English but the nature coaching given by appellant which is relevant to decide the exemption under notification.

Neither the tax entry nor the exemption notifications are having reference to any point of discussion which formed basis for the conclusion drawn by the impugned order. We find that the impugned order was mis directed when examining the legal issue. Accordingly same is set aside.

6. We also rely on the decision of Tribunal in Darshan English Classes (supra). The original order has correctly applied legal provisions to the facts of case. Accordingly, the impugned order is set aside and appeal is allowed.

7. It is to be noted here that for the period when no exemption notification was available, the appellants liability is not in dispute.

(dictated and pronounced in the court)

(S K Mohanty)
Member(Judicial)

(B Ravichandran)
Member(Technical)

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