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

DATE OF HEARING : 10/03/2017.
DATE OF DECISION : 10/03/2017.

Service Tax Appeal No. 661 of 2010

[Arising out of the Order-in-Appeal No. 59 (DK)/ST/JPR-I/2010 dated 19/02/2010 passed by The Commissioner (Appeals – I), Customs & Central Excise, Jaipur – I.]

M/s Academians Classes — Appellant

Versus

CCE, Jaipur – I — Respondent

Appearance

Ms. Priyanka Goel, Advocate – for the appellant.

Shri Ranjan Khanna, Authorized Representative (DR) – for the Respondent.

CORAM: **Hon'ble Shri S.K. Mohanty, Member (Judicial)**
Hon'ble Shri B. Ravichandran, Member (Technical)

Final Order No. 52462/2017 Dated : 10/03/2017

Per. S.K. Mohanty :-

Heard both the sides and perused the appeal records.

2. This is the second round of litigation before the Tribunal. This Tribunal vide final order dated 06/07/2009 has remanded the matter with direction to the Original Authority for verifying the fact as to whether the amount of Rs. 89,485/- was recovered

by the appellant towards fees and also to verify whether service tax of Rs. 16,218/- was refunded by the appellant in respect of the refund of fees made to the candidates. Pursuant to the direction of the Tribunal, the Department took up denovo adjudication proceedings and passed the order in confirming the service tax demand. On appeal against the adjudication order dated 30/09/2009, the learned Commissioner (Appeals) vide the impugned order has held that the amount of Rs. 89,485/- has not been realized by the appellant and accordingly, extended the benefit of the said demand to the appellant. With regard to the exemption claimed by the appellant in terms of Notification No. 6/2005-ST dated 01/03/2005, the learned Commissioner (Appeals) has recorded the following findings :-

> "As regards exemption under Notification 06/2005-ST dated 01/03/2005 I find that the appellant vide their letter dated 14/09/2006 has informed that they have recovered service tax of Rs. 16,218/- during the period 01/04/2005 to 30/04/2005 from their customers and during the personal hearing held on 29/01/2010 has stated that they have no evidence of refund of service tax of Rs. 16,218/- and hence they do not want to contest the same".

3. On perusal of the above findings, we find that the appellant has not submitted any documents to show that the exemption provided in Notification dated 01/03/2005 is available to it and further they did not contest the matter before the Commissioner (Appeals). Therefore, we do not find any infirmity in the

impugned order and accordingly, dismiss the appeal filed by the appellant.

(Order dictated and pronounced in open court.)

(S.K. Mohanty)
Member (Judicial)

(B. Ravichandran)
Member (Technical)

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