CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K.Puram, New Delhi

COURT-IV

Date of hearing/decision: 15.06.2017

Appeal No. ST/767/2011 (DB)
[Arising out of the Order in Appeal No.81/STax/D-II/11 dated 21/02/2011, passed by the Commissioner of Central Excise (Appeals) Delhi-II, New Delhi

Aakash Institute Appellant

Vs.

C.C.E Delhi Respondent

Appearance:

Present, Ms. Shreya Ganjoo, Advocate for the appellant
Present Shri Amrish Jain, DR for the respondent

Coram: Hon'ble Mr. D.N. Panda, Member (Judicial)
Hon'ble Mr.Ashok K. Arya, Member (Technical)

FINAL ORDER No. 54046/2017

Per D.N.Panda

1. While appellant says that provision of the transport service to the students is not an integral part of rendering the taxable service of commercial coaching and training, Revenue says that the provision of the transport service was part and parcel of commercial coaching and there was no disintegration of that service by the appellant. Since appellant failed to produce

respective agreements relating to provision of service of transport to the students nor also there was any evidence to show that provision of transport service was not the part of contract to provide commercial training and coaching service, it is difficult to reach to the conclusion at this stage.

2. Agreement will certainly have a role to decide the taxability in so far as the transport service is concerned. But the impugned order exhibits the anxiety of revenue to bring the transport facility provided by the appellant institution to the students to bring them for coaching centre and that was integral part of the coaching service for taxation. Further, Revenue's stand is that the statement of the Manager of the institution Shri R.K. Verma recorded on 24/02/2008 established that there was no written agreement with the transport providers .Appellant failed to prove that what is not integrally connected nor had intimate connection shall not contribute to the gross value of the taxable service provide to determine the taxability. The transport service provided may be ancillary but whether was integrally connected to the principal service of coaching needs determination. To determine such aspect Ld. Adjudicating authority is directed to provide an opportunity to the appellant by 31 August, issuing notice to establish its stands both on facts and law and appropriately determine the liability. Ld. Authority is directed to

consider entire evidence discovered in the course of investigation and evidence available on record as well pleadings of the appellant and evidence to pass order by 30 September, 2017. With such exercise only, the litigation will come to an end at the grass roots. Appellant shall not take any adjournment since Revenue's interest has been seriously affected by the dilatory practice of the appellant. Since time limit has been prescribed by this order to complete readjudication, appellant shall not seek refund till completion of readjudication.

3. With the aforesaid direction and observation the matter is remanded to the ld. Adjudicating Authority.

[Order dictated and Pronounced in the open court]

(Ashok K. Arya)
Member (Technical)

(D.N.Panda)
Member (Judicial)

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