IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.

Date of Hearing/Decision: 20.6.2017

Appeal No. ST/1192/2011-DB

(Arising out of Order-in-Appeal No. 193(DKV)ST/JPR-I/2011 dated 9.5.2011 passed by the Commissioner (Appeals), Central Excise, Jaipur)

M/s Birla Institute of Scientific Research — Appellant

Vs.

CCE, Jaipur — Respondent

Appearance

None - for the appellant

Shri Sanjay Jain, D.R. - for the respondent

CORAM: **Hon'ble Mr. Dr. D.M. Misra, Member (Judicial)**
Hon'ble Mr. Ashok K. Arya, Member (Technical)

Final Order No. 54115/2017

Per Dr. D.M. Misra :

None present for the appellant. Heard the ld. DR for Revenue.

2. This is an appeal filed against the Order-in-Appeal No. 193/2011 dated 9.5.2011 passed by the Commissioner, Central Excise (Appeals).

3. The facts of the case in brief are that the appellants were registered for providing the taxable service viz. 'Mandap Keeper', however, they even though provided 'commercial training or coaching service', during the period from July 2003 to January, 2006

but neither registered nor paid the Service Tax. Consequently, Show Cause Notice was issued to recover the service tax amount of Rs.60,785/- from the appellant along with interest and penalty. On adjudication, the demand was confirmed with interest and penalty. Later, on appeal confirmed by ld. Commissioner (Appeals). Hence, the present appeal.

4. The ld. AR for the Revenue reiterates the findings of the ld. Commissioner (Appeals). The ld. Commissioner (Appeals) observed that there is no dispute of the fact that the appellant had provided 'commercial coaching and training services' to various students in relation to bio-technology and bio-sciences, but their only plea is that they have not paid service tax as their motive was not to earn any profit in providing said services. The ld. Commissioner (Appeals) did not entertain the appeal as no evidence had been produced before him as to whether any profit has been earned or otherwise. Also, he has recorded that merely because the appellants are registered as a cooperative society under the relevant Act, it does not ipso facto exempts them in not paying service tax under the category of 'commercial training or coaching service', even though such service had been provided by them.

5. On going through the appeal memo, we do not find any evidence that has been placed by the appellant that the value

collected is without any profit. Besides, it is immaterial whether the service is rendered with profit motive or otherwise for levy of Service Tax. In the circumstances, we do not find any reason to interfere with the order of the ld. Commissioner (Appeals). The appeal is dismissed.

(Dictated & pronounced in open Court)

(Ashok K. Arya)
Member (Technical)

(Dr. D.M. Misra)
Member (Judicial)

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