IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO.2, R.K. PURAM, NEW DELHI-110066

BENCH-DB

COURT –III

Service Tax Appeal No.ST/51755/2014-CU [DB]

[Arising out of Order-in-Appeal No.210 (VC)ST/JPR-I/2013 dated 20.11.2013 passed by the Commissioner (Appeals), Central Excise, Jaipur-I]

M/s.Vibrant Academy (India) Pvt. Ltd. …Appellant

Vs.

C.C.E. & S.T., Jaipur … Respondent

Present for the Appellant : Mr.B.L.Narasimhan, Advocate
Present for the Respondent: Mr.Neha Garg, D.R.

Coram:
HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. B.RAVICHANDRAN, MEMBER (TECHNICAL)

Date of Hearing / Decision : 26.07.2017

FINAL ORDER NO. 55583/2017

PER: B.RAVICHANDRAN

The appeal is against the order dated 19.12.2013 of Commissioner (Appeals-I), Jaipur. The appellants are engaged in providing commercial training and coaching and are registered with the Department for discharging Service Tax. The dispute in the present appeal is relating to the inclusion of application form fee received by the appellant by selling application forms for various courses. The lower authorities held that such fee received in consideration of sale of application forms should form part of gross value of service tax purpose. Accordingly, differential service tax demand to Rs.4,82,590/- was confirmed against the appellant for the period 01.04.2010 to 31.03.2011. Equal amount of penalty under Section 78 and further penalty under Section 77 were also imposed.

2. The ld. Counsel representing the appellant submitted that they have prospectus and application form, which are priced and offered for sale to various interested parties. They have determined Service Tax on coaching fee they received in connection with various commercial coaching service. However, the sale of application form alongwith prospectus cannot be considered as a service for commercial coaching and the fee received for such sale cannot form part of the taxable value, as there is no link to that service. He relied on certain decided cases in which the Tribunal held that application form fee cannot be included for tax purposes.

3. The ld. A.R. reiterated the findings of the lower authorities.

4. We have heard both the sides and perused the appeal records. Admittedly, the appellants are selling priced application form alongwith prospectus with reference to various courses offered by them. These are separate activities though

with reference to various courses offered by it. We note similar matter was come up for decision by the Tribunal and it was held that the sale of application form fee cannot be added to the gross consideration for taxable value. Even otherwise the provisions of Notification No. 12/2003-ST may apply to the facts of the case. In this connection. We rely on the decision of the Tribunal in Balajee Society - 2015 (38) S.T.R. 139 (Tri. – Mum.) and Sadana Educational and People Development Services Pvt. Ltd. and Others – 2015 T.I.O.L. 1200 (CESTAT-Mumbai)

5. In view of the ratio adopted in the decided cases, we find no merit in the impugned order and accordingly, set aside the same. The appeal is allowed.

[Dictated and pronounced in the open Court]

(B. RAVICHANDRAN) **MEMBER (TECHNICAL)**	**(S.K. MOHANTY)** **MEMBER (JUDICIAL)**

Anita