IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
WEST BLOCK NO.2, R.K. PURAM, NEW DELHI – 110 066.

Date of Hearing: 20.10.2016

Date of Pronouncement: _11/09/2017__

Application Nos. ST/MISC/51597 & 51596/2016-CU[DB]
Appeal No.ST/825 & 960/2010 -CU[DB]

[Arising out of Order-in-Original No.15 & 16/RDN/2010, dated 16.03.2010 and 29.03.2010 respectively passed by C.S.T., Delhi]

M/s. ITM International Pvt. Ltd. Appellant

Vs.

C.S.T., Delhi Respondent

<u>Appearance</u>
Ms. Lalitha Krishnamurthy, CA - For Appellant
Mr. Sanjay Jain, DR - For Respondent

CORAM: Hon'ble Ms. Archana Wadhwa, Member (Judicial)
Hon'ble Mr. Ashok K Arya, Member (Technical)

IO No.15-16/2017 dated 09.02.2017

Final Order No. <u>56696-566972017</u>, dated <u>11/09/2017</u>

Per Mr. Ashok K Arya :

1. The appellants are in appeal against the Orders-in-Original dated 16.03.2010 and 29.03.2010 respectively passed by Commissioner of Service Tax, Delhi. The matter concerns with the liability of service tax for the services rendered by the appellants under the category of "Commercial Training and Coaching" services.

2. The appellant is represented by Ms. Lalitha Krishnamurthy, ld. consultant and Revenue is represented by Ld. AR, Mr. Sanjay Jain.

3. The Ld. consultant based on appeal memo *inter alia* submits as under:-

i. The appellant runs various courses which lead to award of degrees of University of London, Allahabad Agriculture Institute (deemed University)

ii. Along with above courses, they also run British English Certificate course and personality development courses.

iii. The degrees awarded by University of London and Allahabad Agriculture Institute for their courses are equivalent and at par with undergraduate and Honours degrees of various universities.

iv. The degrees awarded for the appellant's courses by University of London have been mentioned as equivalent to the corresponding degrees like B.Sc. and B.A.(Hons.) of University of Delhi and other universities in the title "Equivalence of Foreign Degrees". The Association of Indian Universities (AIU) is the only body in India which is recognised to grant Equivalence of Degrees awarded by the foreign universities.

v. Acknowledging its role and work, the Ministry of Human Resource Development, Govt. of India vide their letter No.F.15-17/94-TS IV dated 13.03.1995 issued a Notification that those foreign qualifications which are recognised/equated by the AIUU are treated as recognised for the purpose of employment to post and services under the Central Govt.

vi. Rule 12 of Central Excise (Appeal) Rules, 2001, in its Explanation also makes a mention of University of London as the recognised university, whose degree is being recognised as eligible qualification for the "authorised representative".

vii. In support, She relies on the following case laws:-

(a) *IILM Academy of Higher Learning Vs. CCE, Jaipur [2012 (27) STR 136 (Del.-Tri.)*

(b) *Institute of Clinical Research (India) Vs. CST, Delhi [2013 (6) TMI 562 – CESTAT NEW DELHI]*

(c) *Apex Institute of English Vs. CCE, Guntur [2011 (12 Taxmann.com 416 (Bangalore – CESTAT)]*

(d) *ICM English Centre Vs. CST, Bangalore [2012 (25) Taxmann.com 484 (Bangalore – CESTAT)]*

4. The Ld. Consultant also submits that the extended period cannot be invoked against them as there is no prima facie intention to evade on the part of the appellant.

4.1 Ld. Departmental Representative reiterates the findings given by the lower authorities.

5. We have carefully gone through the records, submissions made by both parties and the case laws cited by them.

5.1 Revenue has confirmed the demand of service tax against the appellant treating it as commercial training or coaching centre. "Commercial Training or Coaching Centre" has been defined under the provisions of Section 65(27) of the Finance Act, 1994, which is reproduced below:-

> ***"65(27) Commercial Training or Coaching Centre"*** *means any institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than the sports, with or without issuance of a certificate and includes coaching or tutorial classes but does not include preschool coaching and training centre or any institute or establishment which issues any certificate or diploma or degree or any educational qualification recognised by law for the time being in force;"*

The services provided by such a “commercial training and coaching centres’ are taxable under the provisions of Section 65 (105) (zzc) of the Act, where it inter alia says that *“the taxable Service" means any service provided or to be provided to any person, by a commercial training or coaching centre in relation to commercial training or coaching;”*

5.2. The appellant is arguing that they are not covered by the definition of commercial training or coaching centre given in Section 67(27) of the Act, because they are the institute or establishment who are conducting the courses where degrees like B.Sc., BBA, MBA are awarded by University of London, Allahabad Agriculture Institute, though they are running some additional courses also on English teaching and personality development. It is a fact that the appellant is mainly running courses leading to awarding of degrees by University of London and Allahabad Agriculture Institute, and which are recognised by certain Universities in India as mentioned in the brochure of AIU. However, the appellant itself does not issue any kind of diploma or degree, which is recognised by law for the time being in force. In other words, the appellant is not covered in the exclusions mentioned in Section 65(27) of the Act. To make the matter more clear it is not in dispute that the degree/diploma for the courses run by the appellant are issued awarded either by University of London or by Allahabad Agriculture Institute, but when the appellant itself is not issuing any diploma or degree certificates recognised by law, it is not excluded from the definition of “Commercial Training or Coaching Centre” given in Section 65(27) of the Final Act, 1994. The case laws cited by the ld. consultant in support of the appellant’s case are of no help and do not support the stand of the appellant.

5.2.1 The Order-in-Original mentions that the appellant has been showing the income from the respective courses for the period from 2003-04 to 2007-08 for which the Show Cause Notice was issued on 20.04.2009 by Commissioner, S. Tax, Delhi. The appellant pleads that there has been no willful suppression of material facts relating to non-payment of service tax on the various courses run by them and there has been 'no intention on their part to evade' the payment of service tax; further they were under the *bona fide* belief that the services rendered by them were not liable to service tax during the said period and accordingly they accounted the same on the books of accounts; the same was observed during the audit. When the facts are so, the extended period of limitation cannot be invoked against the appellant under Section 73 of the Final Act, 1994. With above facts, the appellant pleads that service tax is not payable for the period beyond one year.

5.3 From the record we find that the Department has not been able to produce any substantial evidence to indicate that there has been wilful suppression with intent to evade the service tax on the part of the appellant. Consequently, the liability of service tax against the appellant cannot be confirmed beyond the period of one year preceding the date of Show Cause Notice.

5.4 Based on above discussions, the matter deserves to be remanded to the original adjudicating authority, Commissioner of Service Tax for quantification of demand of service tax and imposition of penalty, if any, for the period of one year preceding to the date of Show Cause Notice. The adjudicating authority shall decide the same afresh after giving the necessary opportunity of personal hearing and production of documents, if any, to the appellant.

5.5 In the result the appeals are allowed by way of remand in above terms.

[Pronounced in the Open Court on _______________]

(Archana Wadhwa)
Member (Judicial)

(Ashok K Arya)
Member (Technical)

SSK

Per Archana Wadhwa:

6. After having gone through the order proposed by my learned brother Shri Ashok K Aarya, I agree with him as regards the non-applicability of extended period of limitation. However, as regards merits of the case, I have a different opinion. As I feel that my learned brother has not gone into the detailed facts and the legal pleadings made by the appellant, I proceed to deal with the same.

7. As per facts on record, the appellant is registered with the Service Tax department under the category of “Commercial training and coaching services”. As per the audit conducted by the department, it was found that appellant was discharging the Service Tax liability on various services rendered by them, but Service Tax was not being paid in respect of courses leading to award of degrees by Allahabad Agriculture Institute (Deemed university) as also to degree courses where the degrees were being provided by the University of London (London School of Economics and Political Science). Further, no tax was paid on the business English

certificate (BEC) course from University of Cambridge, ECO as examined and personality development courses, by treating the same as vocational training course.

8. In the above factual background, proceedings were initiated against the appellant by way of issuance of two show cause notices dated 20.4.09 and 6.7.09, proposing confirmation of service tax in respect of above activities. The said proposal stand confirmed by the impugned orders along with confirmation of interest and imposition of penalties.

9. Learned advocate appearing for the appellant has drawn our attention to the definition of 'commercial training or coaching centre' as appearing in section 65(27) of the Finance Act, 1994. As per the said definition and as per the exclusion clause relating to Institute issuing any certificate or diploma or degree or any educational qualification **recognized** by law , does not get covered under service tax net. As such, the crucial point required to be examined in the present appeal is as to whether courses offered by the appellant leading to award of degree by the Allahabad Agricultural Institute and London School of Economics and Political Science are courses **recognized** by law for the time being in force so as to exclude the same from the levy of Service Tax.

10. Learned brother Shri Aarya has observed that the appellant was mainly rendering the courses leading to award of degree from University of London and Allahabad Agricultural Institute which are recognized by certain Universities of India as mentioned in the provisions of Association of Indian Universities but as the appellant is not awarding the said degrees by themselves, they cannot be held to be covered by the exclusion clause.

11. The appellants have taken a categorical stand that the definition does not cover an institute or establishment which issues certificate or diploma, degree recognized by law for the time being in force and there is no requirement that Institute or the establishment itself should award the degree. It is their contention that the appellant is affiliated to and granted permission by the prestigious London School of Economics and Political Science to teach for degree / diploma prescribed by the University of London. The said degree / diploma are treated equivalent to and at par with graduation degree/ diploma of various public Universities of India and are duly recognized as per "Equivalence of foreign degrees" brought out by the Association of Indian Universities (AIU) . They have also placed on record, the information brochure of AIU. AIU is the only body in India which is recognized to grant equivalence of degree awarded by foreign universities. Acknowledging its role and work, the Ministry of Human Resources Development, Government of India vide Notification No. F.15-17/94 TS IV dated 13.3.1995 notified that "those foreign qualifications which are recognized /equated by the AIU, are treated as recognized for the purpose of employment to post and services under the Central Government".

12. What is the meaning of recognized by law ? The said issue stand discussed by the Hon'ble Delhi High Court in the case of ***Indian Institute of Aircraft Engineering vs. Union of India [34 Taxmann.com 191 (Delhi HC)]*** wherein it was observed that the expression "recognized by law" is a very wide one and stands used by the legislature in contra distinction to use the expression 'conferred by law' or conferred by statute. As such, any degree, diploma or certificate issued by a foreign university or institutes recognized by AIU has to be treated as a certificate

'recognized by law' for the time being in force. It is also seen that by Notification No. 43No.F 18-23 /92-TD.V/TS-IV dated 01.03.1995 for 2009 - 2010 attached as Appendix 6 HRD Ministry, Government of India has declared that the equivalence of degrees/ diplomas awarded by AIU will be valid for the purpose of higher education as well as employment in India. As such, in my views, the degree awarded by University of London or University of Allahabad are the degree which are recognized by law for the time being in force and as such, would get included in the exclusion clause of the definition.

13. Infact, I find that the adjudicating authority in the impugned order has also observed that the "Although the noticee is affiliated to London School of Economics, all exam are conducted by LSE and certificates and diplomas are being issued by LSE which are recognized by all the national universalities, however as an adjudicator being a subordinate body of the Government of India no powers have been vested in me to expand the scope of the circular and the same is binding on all the field formations", and has chosen to follow the Board's circular No. 107/01/2009-ST dated 28.1.09. Apart from the fact that such Board's circulars are not required to be followed blindly by the adjudicating authority, unless they are in favour of the assessee, I also note that said circular does not clarify the said issue. The same interprets the term "recognized by law for the time being in force" as a degree /diploma / certificate specifically recognized by statutory authorities such as UGC / AICTE. UGC grants recognition to universities and deemed universities under section 2(f) and section 3 of the UGC Act, 1956, and is not a body to grant recognition to any certificate or degree or education or any educational qualification. As per section 2(f) of the University Grant Commission Act, "University means a

University established or incorporated by or under a Central Act, a Provincial Act or a State Act and includes any educational institute as may, in consultation with University concerned, be recognized by the Commission in accordance with the regulations made in this behalf under the Act. As such, it is seen that UGC Act does not state anything about recognition of courses or degrees/diplomas. AICTE only recommends technical curriculum and other criteria for technical courses to be offered by technical colleges. As such, the said circular of the Board is not at all applicable to the facts of the present case.

14. It is a matter of common understanding that degree awarded by Harvard, Oxford or Cambridge Universities are recognized by law for the time being in force in India. Same are recognized for higher education in many Indian universities and merely because such University are not recognized by UGC or AICTE, it cannot be said that degree awarded by them are not recognized in India. Learned Counsel appearing for the appellant has drawn our attention to a website of UGC which has issued an advisory for Indian students seeking admission in foreign universalities/ institutions which states that all Indian students wishing to pursue the study abroad may contact the Association of Indian Universities at the given address, for information regarding the accreditation status of foreign universities and the valuation and equivalence of degrees and diplomas awarded by the accredited universities abroad. This establishes that the Association of Indian University (AIU) is the statutory authority to determine the status of a Foreign university’s degree and if a degree is recognized by AIU then it is recognized by law. The fact that Circular in question, uses the words “such as UGC, AICTE” does not mean that recognition by other bodies like AIU would not be proper. Infact Circular DOF No. 334/1/2010 –

TRU dated 26.2.2010 clarifies that the university created under a Central or State Act, institutes recognized by UGC as universities or deemed universities, institutes granted recognition professional councils like AICTE, Medical Council of India, Bar Council of India etc. would be beyond the purview of service tax.

15. As already observed that the adjudicating authority has concluded that the degree being awarded by the LSE are recognized by all the national universities, but has still not extended the benefit to the appellant by the sole reliance on the Circular. It is well settled that the adjudicating authority is under a legal obligation to examine quasi judicial issue independently and not to follow the Boards' circular blindly. Reference in this regard may be made to decision in the case of DLF Limited vs CST, Delhi [2012 (27) STR 512 (Tri-Del)]. Infact I find that Commissioner (Appeals) in the same assessee's case vide his order-in-appeal No. 28/SVS/GGN/2014 dated 30.1.14 has examined the issue in detail and has concluded that the courses offered by the appellant are recognized by law in India and as such, appellant would fall outside the ambit of Commercial or coaching centre in so far as LSE courses by the appellant are concerned. No appeal stand filed by the Revenue against the said order of Commercial (Appeals) and the same has attained finality. Revenue has also not been able to show us that the said order of Commissioner (Appeals) was put to challenge by the Revenue before the higher appellate forum.

16. Inasmuch as the issue is finally settled by the said decision of Commissioner (Appeals) with which the Revenue does not seem to be aggrieved with and in view of the discussions in the preceding paragraphs

as also in view of the fact that degrees being awarded by the London School of Economics and Allahabad Agricultural Institute are recognized by law, I am of the firm opinion that no service tax liability would get fastened against the appellant in respect of such two courses.

17. Further a part of the service tax demand relates business English course, which relates to the grant of certificates from University of Cambridge and the Personality Development course which provides skill to develop confidence, the appellants have claimed that said courses, which enable the candidate to procure jobs are exempted inasmuch as the same are vocational training institute. It is seen that the said issue was also considered by the Commissioner (Appeals) wherein he has referred to the Board Circular No. 107/01/2009 dated 28.1.2009 which reads as under:

> *"The vocational training institutes are exempted from service tax vide notification No. 24/2004-ST dated 10.9.2004 (as amended). By definition, such institutes should provide training or coaching that imparts skill to enable the trainee to seek employment or undertake self-employment, directly after such training or coaching. Disputes have arisen in respect of institutes that offer general course on improving communication skills, personality development, how to be effective in group discussions or personal interviews, general grooming and finishing etc. It is claimed that such training or coaching improves the job prospects of a candidate and therefore they are eligible for exemption as vocational training institutes. However, a careful reading of the definitions shows that the exemption available only to such institutes that impart training to enable the trainee to seek employment or self-employment. The courses referred to above do not satisfy this condition because on their own such courses do not prepare a candidate to take up employment or self-employment directly after such training or coaching. Then only improve the chances of success for a candidate who already has the required skill. Therefore, such institutes are not covered under the exemption.*

He has further observed that notification No. 24/2004-ST dated 10.9.2004 exempts vocational training institute which provides vocational training or coaching that impart skills to enable the trainee to seek employment or self employment directly after such training or coaching. The said exemption was withdrawn vide Notification No. 3/2010-ST dated 27.2.2010 by which the meaning of ‘ Vocational Training Institute has been changed to ‘Industrial Training Institute’ or an ‘Industrial Training Centre’ affiliated to the National Council for Vocational Training, offering courses in designated trades as notified under the Apprentices Act, 1961.

He has accordingly observed as under:

“19. However, it is to be noted that these provisions and subsequent amendments thereof would be applicable to ‘vocational training institutes’ which exclusively prepare applicants for Board examination

However, it is to be noted that threes provisions and subsequent amendments thereof would be applicable to vocational training institutes which exclusively prepare applicants for Board examinations and competitive exams like entrance examinations for Indian institute of Technology Joint Entrance Examinations / Pre Medical Tests, Civil Services exams etc. as has been clarified by the Board in its Circular No. 59/8/2003 dated 20.6.2003 mentioned in para 15 (supra). In the same circular, the Board has further clarified as under:

2.2.3 Certain doubts have been raised in case of commercial coaching and training in this regard, the following is clarified.

- ...
- *Whether service tax is leviable on institutes providing commercial coaching in addition to recognized degree courses.*

Some institutes like collages, apart from imparting education for obtaining recognized degree / diploma / certificates also impart training

> *for competitive examinations, various entrance tests etc.* ***It is clarified that by definition, such institutes or establishments, which issue a certificate, diploma or degree recognized by law, are outside the purview of "commercial training or coaching institute". Thus, even if such institutes or establishments provide training for competitive examinations etc., such services rendered would be outside the scope of service tax.***

20. from the above, it has now become clear that the principles elucidated by the above Circular would hold good during the period under dispute."

18. As already observed the said decision of the Commissioner (Appeals) stand accepted by the Revenue and as such, I am of the view that even in respect of said courses, no service tax liability would stand imposed on the appellant. Accordingly, in my view the appeal has to be allowed in totality.

(Archana Wadhwa)
Member (Judicial)

Difference of Opinion

Demand within the limitation period is required to be upheld, as held by learned Member (Technical) or the entire demand has to be set aside as held by learned Member (Judicial).

(Ashok K Aarya)
Member (Technical)

(Archana Wadhwa)
Member(Judicial)

M/s ITM International (P) Ltd Vs CST Delhi

Appeal No.ST/825, 960/2010

Interim order-57-58/2017

DOH: 28.04.2017

Dt of Pronouncement 04.07.2017

Per B.Ravichandran

This appeal is referred to the third member due to difference of opinion

between the members in the Division Bench while deciding the case.

2. The appellants are engaged in the field of education and coaching. They are registered with the ST department under the category of "Commercial Training or Coaching Services". The dispute in the present appeal relates to tax liability of the appellant. In respect of two main activities, namely, (a) fees received for offering courses of London School of Economics (University of London) resulting in issue of degree by the University of London and (b) Fee received for coaching provided for Business English and Personality Development. The present appeal is against confirmation of demand of service tax against the appellant under the category of commercial coaching or training service. The case was decided by the Division Bench and as per Interim Orders No.15-16/2017 dated 09.02.2017, the following difference of opinion was framed for reference to the third member:

"Demand within the limitation period is required to be upheld, as held by learned Member (Technical) or the entire demand has to be set aside as held by learned Member (Judicial)."

3. The case is listed for resolving the said difference of opinion. I have heard Ms Lalita Krishnamurthy, ld CA on behalf of the Appellant and Mr Ranjan Khanna, ld AR on behalf of the Revenue. I have perused the appeal records, Including written submissions and various case laws relied upon by both the sides.

4. The Member (Technical) held that the appellants do not issue degree or diploma recognized by law. As such, he held them liable for service tax, holding that they are covered by the definition of "Commercial Training or Coaching Centre" in terms of Section 65(27) of the Finance Act, 1994. Ld Member (Judicial) held that the course provided by the appellant resulted in the issue of degree by the University of London (London School of Economics) which is recognized by law in India. She relied on various communications of UGC and AIU to hold that the degree which was issued, on completion of course is recognized as equivalent to degree issued by Indian Universities or Institutions. Reliance was also placed on the decision of the Commissioner (Appeals) order dated 30.01.2014 wherein it was held that the course offered by the appellant are recognized by law in India and as such the appellants would not fall within the ambit of "Commercial Training or Coaching Centre." Regarding Business English Course and Personality Development Courses, Member (Judicial) held that as appellant will not fall under the category of commercial training or coaching centre, no service tax liability can arise on such courses offered by the appellant.

5. On the first issue, regarding courses offered by the appellant resulting in the degrees/diplomas awarded by University of London, I find that these degrees/diplomas are to be considered as recognized by the law for the time being in force. It is noted that inference that degree or diploma or any educational qualification should be issued by commercial trainee or coaching

Centre itself, is too literal interpretation of the statute. It is a well known fact that the colleges in India provide courses resulting in degrees or diplomas but the said degree and diplomas are issued by the University or the main Institute to which these colleges are affiliated. If it is to be held that as the degree is not issued by the college which is providing course, the college should be considered as a 'commercial trainee or coaching centre', subjected to service tax, such interpretation will result in absurd consequences. Admittedly, the degree or diplomas are issued by the Universities or the main organization to which the college or an institute or a centre is affiliated. Keeping this in the background, it can be seen that the degree or diploma being issued by University of London can be considered at par while interpreting the scope of commercial training or coaching centre.

6. The next question is whether such a degree or diploma is recognized by law for the time being in force. Here, the reason discussed by Member (Judicial) is proper and sustainable. The UGC and AICTE etc are recognizing bodies of a University or an institution. The degree or diploma awarded by these institutions are being considered as recognized by law for time being in force. In this connection, we note the position has been clarified regarding the scope of the term qualification 'recognized by any

law' will include such course as are approved or recognized by any entity established under a central or a state law, including delegated legislation, for the purpose of granting recognition to any education course.

7. Further, it is seen that the Ministry of Human Resource Development vide their notification dated 13.03.1995 stated that the Govt. of India had decided

that those foreign qualifications which are recognized/equated by Association of Indian Universities are treated as recognized for the purpose of employment to posts and services under the Central Government. No separate orders for recognition of such foreign qualification is needed to be issued. Here it is relevant to note that UGC had advised the Indian students to ascertain information regarding equivalence of the degrees and diplomas awarded by accredited Universities abroad. The degree/diploma programmes offered by the appellant resulting in the issue of certificate by the University of London (LSE) which is treated as equivalent to degree or diploma of public Universities in India. As such, I find that the appellants will fall outside the scope of definition for 'commercial training or coaching centre.' It may be noted here that even the impugned order indicated that the certificate and diplomas issued by LSE are recognized by all the national universities. However, the adjudicating authority did not consider his own finding as relevant and followed the Board circular which refers to the recognition by statutory authorities like UGC etc.

8. It is relevant to note here that the department has been taking consistently a view that when an educational institute is affiliated to a university/institution awarding a degree recognized by law, then the said institute is not a commercial training or coaching centre. Reference can be

made to circular No.26/2003- 28.08.2012 and 26.02.2010 of the Board. Admittedly, the appellants were providing course resulting in the award of B.Tech, BBA, MBA of Allahabad Agricultural Institute (deemed university). No demand for Service Tax has been made in respect of these courses. Even on this ground, the appellants can not be considered as commercial coaching or training centre. Apart from the fact that the appellants will fall outside the purview of commercial coaching or training centre, I find that the Business English Course and Personality Development course offered by the appellants will be covered by exemption notification No.9/2003 ST. In this connection, reliance can be placed on the decision of the Tribunal in Anurag Soni 2017 (52 STR 18 Tribunal Delhi) wherein the tribunal observed as below:

"5. Notifications No.9/2003 and 24/2004 exempts vocational training institutes from payment of Service 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 pronunciations, 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 Corporation/Institutions where improved particular skill in speaking is 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 Language 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 of 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."

9. In view of the above discussion, I find that the demand for Service Tax against the appellants, not sustainable and accordingly I agree with the Member (Judicial).

(Pronounced on 04.07.2017)

(B. Ravichandran)
Member (Technical)

pcs

Majority Order

In view of the majority order, impugned order is set aside, and the appeal is allowed.

(Pronounced in open Court on 11/09/2017_)

(S.K. Mohanty)	**(Ashok K. Arya)**
Member (Judicial)	**Member (Technical)**

Rekha