CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No.2, R. K. Puram, New Delhi, Court No. 1

Date of hearing/decision: 25.09. 2017

S. T. Appeal No. 52776 of 2014

(Arising out of order-in-original No. 35-37/ST/SRB/2014 dated 24.02.2014 passed by the Commissioner of Service tax (Adj.) New Delhi).

M/s Datasoft Computers Services (P) Limited Appellant

Vs.

CCE, New Delhi Respondent

Appearance:

Sh. Prabhat Kumar, Advocate for the assessee
Sh. Sanjay Jain, AR for the Revenue

Coram:

Hon'ble Mr. Justice (Dr.) Satish Chandra, President
Hon'ble Mr. V. Padmanabhan, Member (Technical)

Final Order No. 56805/2017

Per: **Justice (Dr.) Satish Chandra**:

The present appeal is filed against the order-in-original No. 35-37/ST/SRB/2014 dated 24.02.2014 passed by the Commissioner of Service Tax (Adj.), New Delhi. The period of dispute is 2006-07 to 2011-12.

2. Brief facts of the case are that the appellant are engaged by the Chhattisgarh Madhyamik Shiksha Mandal with reference to Board examination work checklist and foil/ counter foils, post examination work regarding maintenance relating to balance stationery etc. The agreement executed is

pertaining to the preparation of examination results on the computers which involve pre-exam and post exam work. The appellant is working on principal to principal basis with reference to third party, i.e. students. The department has charged the service tax under the Business Auxiliary Service. Being aggrieved, the present appeal has been filed by the appellant.

3. With this background, we heard Sh. Prabhat Kumar, ld. Advocate for the appellant who submits that the education service is exempted from the BAS.

4. On the other hand, Sh. Sanjay Jain, ld. AR for the Revenue relied on the impugned order.

5. After hearing both the parties and on perusal of record, it appears that Notification No.14/2004 dated 10.09.2004 provides the exemption for the activities in relation to agriculture, printing and textile processing or education. It is mentioned that the words "in relation to" have been defined by the Supreme Court in the case of ***Doypack Systems (Pvt.) Ltd. vs. Union of India – 1988 (36) ELT 201 (SC)*** where it was observed that-

> "48. *The expression "in relation to" (so also "pertaining to"), is a very broad expression which pre-supposes another subject matter. These are words of comprehensiveness which might both have a direct significance as well as an indirect significance depending on the context, see State Wakf Board v. Abdul Aziz (A.I.R. 1968 Madras 79, 81 paragraphs 8 and 10, following and approving Nitai Charan Bagchi v. Suresh Chandra Paul (66 C.W.N. 767), Shyam Lal v. M. Shayamlal (A.I.R. 1933 All. 649) and 76 Corpus Juris Secundum 621. Assuming that the investments in shares and in lands do not form part of the undertakings but are different subject matters, even then these would be brought within the purview of the vesting by reason of the above expressions. In this connection reference may be made to 76 Corpus Juris Secundum at pages 620 and 621 where it is stated that the term "relate" is also defined as meaning to bring into association or connection with. It has been clearly mentioned that "relating to" has been held to be equivalent to or synonymous with as to "concerning*

> *with" and "pertaining to". The expression "pertaining to" is an expression of expansion and not of contraction*".

6. From the agreement between the Education Board Chhattisgarh Madhyamik Shiksha Mandal and the appellant, it appears that the service is rendered by the appellant are "in relation to" education which is exempted from the service tax as per the Notification No. 14/2004 dated 10.09.2004. When it is so, then we find no justification to sustain the impugned order. The same is hereby set aside.

7. In the result, the appeal filed by the appellant is allowed.

(Dictated and pronounced in the open Court).

(V. Padmanabhan) Member (Technical)	(Justice (Dr.) Satish Chandra) President

Pant