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

Date of Hearing/Order: 21.2.2018

Appeal No. ST/825-827/2011-DB

(Arising out of Order-in-Appeal No. IND/98 to 100/2011 dated 3.3.2011 passed by the Commissioner (Appeals), Customs & Central Excise, Indore)

CCE, Indore — Appellant

Vs.

M/s Daly College Business School — Respondent

Appearance

Shri R.K. Manjhi, A.R. - for the appellant

Shri S.K. Pahwa, Advocate - for the respondent

CORAM: **Hon'ble Mr. S.K. Mohanty, Member (Judicial)**
Hon'ble Mr. B. Ravichandran, Member (Technical)

Final Order No. 51006-51008/2018

Per **S.K. Mohanty:**

Revenue is in appeal against the impugned order dated 3.3.2011 passed by the Commissioner (Appeals), Customs, Central Excise & Service Tax, Indore.

2. Brief facts of the case are that the respondent is engaged in imparting knowledge and lessons to its students by charging fees, for various courses of management, in collaboration with De Montfort University, Leicester (U.K.). On successful completion of the course, the students are awarded with the BA (Hons.) degree in Business Studies, which is a three year undergraduate programme in Business

Management. On going through the description of the course material, the department interpreted that the services provided by the respondent should fall under the taxable category of "commercial training and coaching" service, defined under Section 65 (105) (zzc) of the Finance Act, 1994. Accordingly, the department initiated show cause proceedings against the appellant, which culminated into the adjudication order dated 30.11.2009, wherein service tax demand of Rs. 21,18,015/- was confirmed along with interest and also penalties under various provisions of the Finance Act, 1994 were imposed on the appellant. In support of confirmation of said adjudged demand, the ld. adjudicating authority has held that the certificates/diploma issued by the respondent has not been specifically recognized by the statutory authorities such as UGC, AICTE and accordingly, the respondent should not fall under the exemption category and would be subjected to tax under the taxable head of commercial training or coaching service. On appeal against the said adjudication order, the ld. Commissioner (Appeals) vide the impugned order dated 3.3.2011, has held that the De Montfort University, Leicester, U.K. is an accredited university of U.K. and the Association of Indian University (AIU) had issued the certificate of equivalence for this programme to such foreign university. Thus, he has held that since the certificate by such foreign university having been recognized by the statutory authority i.e. AIU, the respondent herein should not be subjected to levy of tax under the taxable category of 'commercial training and coaching' service. Accordingly, the ld. Commissioner (Appeals) has allowed the appeal in favour of the respondent herein. Feeling aggrieved with the said impugned order, the Revenue has preferred this appeal before the Tribunal. The basic contention of the Revenue in this appeal is that certificate/diploma issued by the foreign university are not recognized by statutory authorities viz. UGC & AICTE and hence, the respondent should not come under the exempted category and would liable to pay service tax under such taxable category of service.

3. Heard both sides and perused the case records.

4. We find that the issue arising out of the present dispute is no more res integra, in view of the decision of this Tribunal in the case of ***IILM Undergraduate Business School Vs. CCE, Delhi*** - 2017-TIOL-4535-CESTAT-DEL. While rejecting the appeal filed by Revenue, the Tribunal has held that AIU is a statutory authority, competent to recognize any degree awarded by a foreign university and thus, the services provided by the respondent therein should be excluded from the purview of taxable service of commercial training and coaching service, for the levy of service tax. The relevant paragraphs in the said decision are extracted herein below:

> "6. We note that degree or diplomas issued by foreign universities are examined for recognition for further

education in India or for employment. It is clear that the courses conducted by the appellant assessee results in award of degree of B.Sc (Hon.) by the Bradford University. The said university is an accredited university by the Association of Common Wealth Universities. We also note that education in India is coordinated by several agencies. While the university system falls within the jurisdiction of the UGC, professional institutions are coordinated by different bodies like AITE, MCI, ICMR, ICAR, etc. Another coordinating agency is Association of Indian Universities. All the universities and equivalent institutions are members of AIU. The Ministry of Human Resource Development, Govt. of India, clarified that AIU is entrusted with recognition of degrees or diplomas awarded by accredited universities in India and abroad for the purpose of admission to higher courses at Indian Universities.

7. It is also clear that IGNOU vide Notification dated 22.02.2008 notified that B.Sc (Hon), degree in Business and Management Studies of University of Bradford, accredited university in UK, is recognized for purposes of admission to post-graduate programmes University of Delhi by letter dated 11.06.2010 recognized the same course as equivalent to the under graduate (Hon.) degree of the University of Delhi for the purpose of admission to post graduate courses by the said university.

8. The Tribunal while examining a similar dispute in the case of M/s ITM International Pvt Ltd vide Final Order dated 11.09.2017 (2017 TIOL 3645 CESTAT, Delhi) held that Ministry of HRD vide Notification dated 13.03.1995 stated that the Govt. of India had decided that those foreign qualifications which are recognized/equated by the AIU are treated as recognized for the purpose of employment services under the Central Government. No separate orders for recognition of such foreign qualification is needed to be issued. The Tribunal also noted that UGC had advised Indian students to ascertain information regarding equivalence of the degrees and diplomas awarded by accredited Universities abroad. While examining these facts, The Tribunal in the said case held that the course offered by appellants resulting in the issue of certificate by the University of London, which is treated as equivalent to degree or diploma issued by Universities in India, the appellant was held to be falling

outside the scope of definition for "Commercial Training or Coaching Centre".

9. We have examined the decision of Hon'ble Madras High Court in Academy of Maritime Education and Training Trust (supra) which is relied on by the Revenue. In the said decision, the High Court mainly relied on the decision of the Tribunal in Bombay Flying Club (1339) STR 156. The facts of the case are that the assessee was offering training course in maintenance, flying, etc. and issued completion certificate. Thereafter, a candidate has to appear for an examination conducted by DGCA. On successful completion of the examination, the DGCA grants licence to the students under Aircraft Act and the Rules. The High Court observed that the assessee is imparting training in these various activities and were collecting fees. As such, they were held to be liable for Service Tax. In the present case, we are dealing with an educational activity which is not claimed for exclusion under vocational training. The exclusion claimed is on the basis that degree awarded on completion of the course is a recognized degree and as such the appellant-assesee is not liable to Service Tax.

10. In view of the analysis as summarized above we are of the view that the appellant-assessee is falling under the excluded category for tax purpose and accordingly the impugned orders holding to the contrary are not sustainable. For the same reason, we find no justification in the present appeal filed by the Revenue."

5. In view of the above settled position of law, we do not find any merits in the appeals filed by Revenue. Accordingly, the same are dismissed.

(Pronounced in open Court)

(B. Ravichandran)
Member (Technical)

(S.K. Mohanty)
Member (Technical)

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