IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

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

BENCH-DB

COURT –IV

Service Tax Appeal No.ST/60634/2013-CU [DB]

[Arising out of Order-in-Original No.JAI-EXCUS-001-COM-053-13-14 dated 30.08.2013 passed by the Commissioner, Central Excise, Jaipur]

M/s. Carrier Point Infosystems Ltd. …Appellant

Vs.

C.C.E., Jaipur-I … Respondent

Present for the Appellant : Mr.B.L.Narasimhan, Advocate
Present for the Respondent: Mr.Ranjan Khanna, D.R.

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

Date of Hearing / Decision : 19.04.2017

FINAL ORDER NO. 58795/2017

PER: S.K. MOHANTY

This appeal is directed against the impugned order dated 05.09.2013 passed by the Commissioner of Central Excise & Service Tax, Jaipur.

2. Brief facts of the case are that the appellant was *inter alia*, engaged in imparting commercial coaching to the students

of engineering and medial entrance examinations such as, IIT-JEE, AIEEE, AIPMT etc. For providing such service, the appellant got itself registered with the Service Tax Department under the taxable category of "commercial training and coaching" service. The appellant provides certain amount in the name of scholarship/ fee concessions to the students for taking coaching for engineering and medical entrance examinations. The appellant considers the actual amount of tuition fee paid by the students as the gross value and discharges the Service Tax liability thereon. Non-inclusion of the amount of scholarship / fee concession in the taxable value was objected by the Department. It was contended by the Service Tax Department that monetary consideration is not the only consideration received by the appellant inasmuch as, because of the said promise of providing concession /discount in the fee structure, students were obliged to take admission in such Institute. It has further been contended that the appellant provided such scholarship / rebate/ concession, with the objective of attracting meritorious students and to create brand of its Institute in the market. Accordingly, the Department concluded that scholarship / rebate/ concession provided by the appellant to its students, should be included in the taxable value, in terms of Section 67 of the Finance Act, 1994 read with Rule 3 of the Service Tax (Determination of Value) Rules, 2006 for the purpose of payment of Service Tax thereon. Accordingly, the Department initiated show cause proceedings against the appellant, which culminated in the adjudication order dated 05.09.2013, wherein Service Tax demand of Rs.4,65,86,010/- was confirmed on the appellant. Besides, penalties were imposed under Section 76 and 78 of the Act.

3. The ld. Advocate appearing for the appellant submitted that the discount/ rebate is being given not only to meritorious students, depending upon their past academic performance, but also to students from different strata of economic status etc. Thus, he submitted that there is no relationship between the students, being given discount/ rebate and the students, whose names are appearing in the advertisement and prospectus given by the appellant. The ld. Advocate further submitted that the appellant is under no obligation to give names of students, to whom discount/ rebate has been given in fees and photo/ names in the advertisements for performance in examinations are not at all linked with such discount/rebate in fees. The ld. Advocate also submitted that the available discount / rebate is always known to the concerned students in advance and therefore, it is never the case that fees is gross and then discount / rebate is given from such gross fees. Thus, the ld. Advocate submitted that discount / rebate provided to the students should not be included in the taxable value, for the purpose of payment of Service Tax by the appellant.

4. On the other hand, the ld. DR appearing for Revenue reiterated the findings recorded in the impugned order.

5. Heard both sides and examined the case records.

6. The issue involved in this appeal for consideration by the Tribunal is whether, the concessional rate of tuition fee collected from certain category of candidates should be considered for inclusion in the gross value for payment of Service Tax under Section 67 of the Act read with Rule 3 of the Rules.

7. We find from the information booklet available in the case file that the appellant offers various concessions to meritorious students, depending upon their past academic performance and also to students, belonging to different economic status. Based on the pre-declared publicity material, the desirous students approach the appellant and take admission for the coaching provided by the appellant. It is not the case of Revenue that the appellant publishes the names and photos only of the students, to whom the discount/ rebate has been given. In other words, the appellant publishes the names and photographs of those meritorious students, who achieve merits in various entrance examinations. Since on the basis of better performance in the entrance examination, the

successful candidates' names and photos were published in the advertisement, it cannot be said that by providing the concession in fee structure, the appellant creates its brand name or goodwill in the market. Further, as per the pre-declared publicity material, the available discount/rebate is always known to the students in advance, before taking admission in the coaching courses provided by the appellant. Furthermore, offering of discount/rebate by the coaching institutes is an accepted trade practice. Thus, the tuition fees actually charged by the appellant, after providing eligible discount/rebate, will only be considered as the gross value for payment of service tax.

8. In view of above, we do not find any merits in the impugned order. Accordingly, after setting aside the same, we allow the appeal in favour of the appellant.

[Operative part pronounced in the open Court]

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

Anita