CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
SOUTH REGIONAL BENCH AT HYDERABAD
BENCH - DB
COURT - I

S.No.	Appeal No.	Appellant	Respondent
1.	ST/2103/2010	National Institute for Micro, Small and Medium Enterprises (NIMSME)	Commissioner of Central Excise, Customs & Service Tax, Hyderabad-II
Arising out of Order-in-Original No.23/2010-ST dt. 28.4.2010 passed by the Commissioner of Customs, Central Excise & Service Tax, Hyderabad-II.			
2.	ST/3254/2012	National Institute for Micro, Small and Medium Enterprises (NIMSME)	Commissioner of Customs & Central Excise & Service Tax, Hyderabad-II
Arising out of Order-in-Original No.11/2012 dt.17.7.2012-Adjn.(ST) (Commr.) passed by the Commissioner of Customs and Central Excise & Service Tax, Hyderabad-II.			
3.	ST/28392/2013	National Institute for Micro, Small and Medium Enterprises (NIMSME)	Commissioner of Central Excise, Customs & Service Tax, Hyderabad-II
Arising out of Order-in-Original No.32/2013-Adjn.(ST) Commr. dt.30.08.2013 passed by the Commissioner of Central Excise, Customs & Service Tax, Hyderabad-II.			
4.	ST/30831/2016	National Institute for Micro, Small and Medium Enterprises (NIMSME)	Principal Commissioner of Service Tax, Hyderabad.
Arising out of Order-in-Original No.HYD-SVTAX-000-COM-112-2016-17 dt. 31.3.2016 passed by the Principal Commissioner of Service Tax, Hyderabad.			
5.	ST/30832/2016	National Institute for Micro, Small and Medium Enterprises (NIMSME)	Commissioner of Service Tax, Hyderabad.
Arising out of Order-in-Original No.HYD-SVTAX-000-COM-43-16-17 dt. 18.7.2016 passed by the Commissioner of Service Tax, Hyderabad.			
6.	ST/30632/2017	National Institute for Micro, Small and Medium Enterprises (NIMSME)	Commissioner of Service Tax, Hyderabad.
Arising out of Order-in-Original No.HYD-SVTAX-000-COM-166-16-17 dt. 12.1.2017 passed by the Commissioner of Service Tax, Hyderabad.			

Appearance:

Mr. V.J. Sankaram, Advocate for the Appellant.

Mr.N.Balasubramanyan &
Mr.Arunkumar, ARs for the Respondent.

CORAM:

HON'BLE Mr. M.V.RAVINDRAN, MEMBER (JUDICIAL)

HON'BLE Mr. MADHU MOHAN DAMODHAR, MEMBER (TECHNICAL)

Date of Hearing: 25.01.2018

Date of Decision: 25.01.2018

Final Order No.A/30447-30452/2018

Per : MADHU MOHAN DAMODHAR

M/s.National Institute for Micro, Small and Medium Enterprises, herein after referred to as appellant or NIMSME) is an autonomous organization working under Ministry of Small Scale Industries, Government of India. It appeared that —

(i) NIMSME were conducting various training and coaching programmes by charging fees, also offering coaching, issued certificates for Post

Graduate Diplomas. Department took the view that these services provided by the appellant are services of commercial training or coaching; that the amounts received for providing become exigible to service tax levy;

(ii) that NIMSME have undertaken consultancy and research projects during 2006-07 which would fall within the ambit of Management Consultancy Service and that on the amounts received by them during 2004-05 to 2008-09 for providing such services, they were liable to service tax with interest thereon

(iii) that NIMSME were running (i) Kalangan (ii) Musins (iii) Utsav, Vanstahli and Frerena outdoor locations and Amphi-theatre and were lending it to the public for organizing social meetings and social gatherings, which would fall within the category of “Mandap Keeper Services” and “Renting of Immovable Property Services” and that on the amounts collected by appellant on such services during 2004-05 to 2008-09, they were liable to pay service tax with interest. Department thus took the view that the activities of the appellants were liable to service tax under various heads namely “Commercial Training and Coaching Services”, “Management Consultancy Services”, “Mandap Keeper Services” and “Renting of Immovable Property Services”. Accordingly, show cause notices dt. 22.10.2009, 20.10.2010, 22.10.2011, 23.04.2013 and 23.05.2014, 01.04.2015 & 26.04.2016 were issued demanding service tax amounts under these heads. These SCNs culminated in the orders-in-original (impugned orders), against which the appellants have come in appeal.

2.1 On 25.01.2018 when the appeals came up for hearing, the appellant was represented by Shri V.J. Sankaram, Ld. Advocate who put forth oral and written submissions, which can be broadly summarized as under:-

(i) The appellant-institute is a national institute under the Ministry of Micro, Small and Medium Enterprises. The Governing Council is headed by the Secretary to Government of India. In view of the interpretative appraisal and also rightly assuming that this institute is a limb of the Ministry and that grants are not leviable to tax, the appellant has been disputing the notices. It is also just and proper that no penalties are leviable and the penalties are liable to set aside.

(ii) In the first appeal ST/2103/2010, for the period 2004-2005, owing to the explanation in notification No.24/2004-ST dated 10.9.2004 in respect of vocational training to the effect that service of imparting training in any vocation to improve skill, the service tax becomes exempt. Thus the amounts charged from participants for imparting such training are exempt from service tax. Therefore liability proposed in the show cause notice would not be sustainable. (iii) The service tax for Mandap Keeper service would only be payable. The appellants would pay the payable tax.

(iv) In respect of other subsequent appeals, service tax would become payable for vocational training also since by notification No.3/2010 S.T. dated 27-2-2010 there is a change in the definitions. By this amendment only such courses that are recognised by National Council for vocational training would stand exempted.

(v) Therefore for the subsequent periods as detailed in each appeal, service tax would become payable for all IT programmes and other short term courses as these are not recognized. The appellants would discharge the payable service tax liability.

(vi) However, the appellants have been making pre-deposits as ordered. In the context of the fact that the service tax is not payable on grants-in-aid as explained in the individual appeals and in view of settled legal provision, the amounts deposited are more than the amounts of service tax actually payable.

(vii) Since the authorities have to re determine the duties payable, the appellant prays to consider remanding the case for issuing denovo order to grant exclusion of amounts received from Governments for sponsored programmes like grants-in-aid etc., where no fees were collected from the participants and the programmes were conducted only as per orders issued by government from time to time, and for re-determining in the context the actual service tax payable in each appeal matter.

2.2 Ld. Advocate also further extended his above submissions appeal wise as under :

I. APPEAL No.ST/2103/2010

[Arising out of OIO No.23/2010 dated 28-4-2010 passed by the Commissioner of Customs and Central Excise Hyderabad-II Commissionerate, Hyderabad)

Sl.No.	Service Tax demanded under	Period in dispute	Amount of Service Tax Demanded	Penalty/ Interest
1	Commercial Training and Coaching Services	2004-05 to 2008-09	Rs.2,84,86,402/-	i.Rs.3,88,00,000/- u/s.78 of the Finance Act, 1994 ii. Rs.5,000/- u/s.77 of the Finance Act, 1994 iii. Interest u/s.75 of the Finance Act, 1994.
2	Management Consultant Services	2004-05 to 2008-09	Rs.84,36,616/-	
3	Mandap Keeper Services	2004-05 to 2008-09	Rs.18,75,969/-	

<u>SCN No.153/2009, dt.22.10.2009</u>

As per the first show cause notice the period is 2004-05 to 2008-09. Amount demanded Rs.84,86,402/- towards Commercial Training or Coaching Services, Management Consultancy, Mandap Keeper Services is 18,75,969/-. The amounts received towards grants of the amount under commercial training or coaching are not liable to tax, the remaining amount representing the fees collected from participants and others is only leviable to tax. The amount received from grants was Rs.31,90,02,765/- is not taxable. An amount of Rs.6,86,49,132/- was received from participants in other programmes. Even this amount is not liable to tax since by notification No.24/2004-CE, dt.10.09.2004, the vocational training given for improving skills although not recognised is exempt. The amount of tax is Rs.84,02,654/-. This amount is not leviable as tax owing to the precepts of notification. The benefit of notification 24/2004-CE, dt.10.09.2004 was no longer available from 27.02.2010 as by notification 3/2010-CE, dt.27.02.2010. The benefit of exemption was limited to courses affiliated to National Council for Vocational Training offering such notified courses under Apprentices Act 1968.

Under Mandap Keeper Service, during the period an amount of Rs.1,61,98,233/- was collected. The tax payable on this amounts to Rs.19,82,864/-. While this is so, an amount of Rs.15 lakhs was paid as pre-deposit under Section 35F of the Act.

II. APPEAL No.ST/3254/2012

[Arising out of OIO No.11/2012 dated 17-7-2012 passed by the Commissioner of Customs and Central Excise Hyderabad-II Commissionerate, Hyderabad)

<table>
<tr><th>Sl.No.</th><th>Service Tax demanded under</th><th>Period in dispute</th><th>Amount of Service Tax Demanded</th><th>Penalty/ Interest</th></tr>
<tr><td>1</td><td>Commercial Training or Coaching Services</td><td>2009-10</td><td>Rs.72,77,251/- U/S 73 (1) of the Finance Act, 1944</td><td rowspan="3">i.Rs.10,000/- u/s.77 of the Finance Act, 1994

ii. Rs.200/- or 2% per month till payment is made u/s.76

iii. Interest u/s.75 of the Finance Act, 1994.</td></tr>
<tr><td>2</td><td>Mandap Keeper Services</td><td>2009-10</td><td>Rs.4,80,631/- U/S 73 (2) of the Finance Act, 1944</td></tr>
<tr><td>3</td><td>Renting of Immovable Property</td><td>2009-10</td><td>Rs.23,644/-</td></tr>
</table>

SCN No.177/2010, dt.20.10.2010

As per SCN the period is 2009-10, the amount of Rs.7,13,04,445/- received towards grants is not leviable to tax in respect of commercial training or coaching service. Hence only the amount of Rs.75,19,128/- collected from participants in other programmes would be taxable, the tax is Rs.9,29,364/- .Towards Mandap Keeper services an amount of Rs.10,47,391/- was collected. The tax is Rs.1,29,458/-. There was also service of renting of immovable property. The amount collected was Rs.2,53,191/-. The tax is Rs.31,294/-. Total tax payable for the period is Rs.9,29,364/-. A pre-deposit of Rs.10 lakhs as already made.

III. APPEAL No.ST/28392/2013

[Arising out of OIO No.32/2013 dated 30-8-2013 passed by the Commissioner of Customs and Central Excise Hyderabad-II Commissionerate, Hyderabad)

Sl. No.	Service Tax demanded under	Period in dispute	Amount of Service Tax Demanded	Penalty/ Interest
1	Commercial Training or Coaching Services	2010-2011 & 2011-2012	Rs.2,22,66,166/- & Rs.2,73,46,630/-	i.Rs.200/- or 2% per day u/s.76 and Rs.200/- per day u/s.77(1)(a) of the Finance Act, 1994. (For period 2010-2011) ii. Rs.200/- or 2% per day (Rs.100/- or 1% from 8.4.2011) u/s.76 and Rs.200/- per day u/s.77(1)(a) of the Finance Act, 1994. (For period 2011-2012) iii. Interest
2	Mandap Keeper Services	2010-2011 & 2011-2012	Rs.2,31,694/- & Rs.1,51,613/-	
3	Renting of Immovable Property	2010-2011 & 2011-2012	Rs.6,639/- & NIL	

				u/s.75 of the Finance Act, 1994.

SCN OR No.131/2011, dt.22.10.2011 and other notice OR No.47/2013 Adjn. (ST) Commr. Dt.23.04.2012

As per show cause notice dt.22.10.2011, the period is the year 2010-11. The amount received as grants is Rs.18,60,89,539/-. This is not leviable to tax. Only the amount of Rs.1,16,96,020/- collected from participants in other programmes is taxable. Tax payable is Rs.12,04,690/-. There was also the service of renting of immovable property. The amount collected was Rs.71,104/- and the tax payable is Rs.7,324/-. Towards Mandap Keeper services the amount received is Rs.19,15,194/-. The tax payable is Rs.1,97,265/-. The other show cause notice is OR No.47/2013, dt.23.4.2013 (Page 60-83). For the commercial training or coaching, the amounts received on grants amounting to Rs.19,61,72,317/- are not taxable. Hence only the fees collected from participants in other programmes is taxable.

The amount of tax payable is Rs.13,52,673/-.

Similarly for Mandap Keeper services the amount of Rs.11,62,268/- received is taxable. The tax is Rs.1,19,714/-. A total amount of tax payable in respect of two show cause notices relating to this appeal is Rs.28,81,666/-. The total deposit under sec.35F was Rs.30 lakhs.

IV. APPEAL No.ST/30831/2016

[Arising out of OIO No.HYD-SVTAX-000-COM-112-15-16 dated 31-3-2016 passed by the Commissioner of Service Tax,Service Tax Commissionerate, Hyderabad)

Sl.No.	Service Tax demanded under	Period in dispute	Amount of Service Tax Demanded	Penalty/ Interest
1	Commercial Training or Coaching Services	2012-2013	Rs.4,15,33,508/- u/s.73(1) of the Finance Act, 1944	i.Rs.41,53,308/- u/s.76 of the Finance Act, 1944 ii. Rs.10,000/- u/s 77 of the Finance Act, 1944 iii. Interest u/s.75 of the Finance Act, 1994.
2	Mandap Keeper Services			

SCN OR No.96/2014 dt.23.05.2014

The notice covers the period 2012-13. The grants of a total amount of Rs.31,61,07,099/- received are not taxable. The other amounts which are fees collected from participants is Rs.1,92,94,322/- which alone is taxable to an amount of Rs.23,84,778/-.

The amounts received from Mandap Keeper services is Rs.6,26,768/-. The tax payable is Rs.77,469/-. A pre-deposit of Rs.31,15,000/- was made. There is an excess Rs.6,52,753/- in balance.

V. APPEAL No.ST/30832/2016

[Arising out of OIO No.HYD-SVTAX-000-COM-43-16-17 dated 18-7-2016 passed by the Commissioner of Service Tax, Service Tax Commissionerate, Hyderabad)

Sl.No.	**Service Tax demanded under**	**Period in dispute**	**Amount of Service Tax Demanded**	**Penalty/ Interest**
1	Commercial Training or Coaching Services	2013-2014	Rs.5,19,58,407/- u/s.73(1) of the Finance Act, 1944	i.Rs.51,95,841/- u/s.76 of the Finance Act, 1944. ii. Rs.10,000/- u/s.77 of the Finance Act, 1944. iii. Interest u/s.75 of the Finance Act,
2	Mandap Keeper Services	2013-2014	Rs.1,32,899/- u/s.73(2) of the Finance Act, 1944	

				1994.

SCN OR No.33/2015, Dt.01.04.2015

The period impugned in the notice is 2013-2014. The total amount received as grants was Rs.40,42,26,185/-. This amount is not taxable. The total fees collected from participants in other programmes is Rs.1,50,74,042/-. The amount only is taxable to an amount of Rs.18,63,152/-. In addition the receipt from Mandap Keeper services is Rs.10,75,234/-. The tax payable is Rs.1,32,899/-. The pre-deposit is Rs.38,97,000/-. There is an excess in balance to an extent of Rs.19,00,949/-.

VI. APPEAL No.ST/30632/2017

[Arising out of OIO No.HYD-SVTAX-000-COM-166-16-17 dated 12-1-2017 passed by the Commissioner of Service Tax, Service Tax Commissionerate, Hyderabad)

Sl.No.	Service Tax demanded under	Period in dispute	Amount of Service Tax Demanded	Penalty/ Interest
1.	Commercial Training or Coaching Services	2014-2015	Rs.7,17,20,664/- u/s.73(1) of the Finance Act, 1944	i.Rs.71,72,066/- u/s.76 of the Finance Act, 1944. ii. Rs.10,000/- u/s.77 of the Finance Act, 1944. iii. Interest u/s.75 of the Finance Act, 1994.
2.	Mandap Keeper Services	2014-2015	Rs.1,68,873/- u/s.73(2) of the Finance Act, 1944	

SCN OR No.105/2016, dt.26.04.2016

The period involved in the financial year 2014-15. The total amount received as grants was Rs.57,02,25,959/-. This amount is not leviable to tax. The other amounts collected from participants of other programmes is an aggregate Rs.86,72,030/-. The tax payable comes to Rs.10,71,863/-. Receipts from Mandap Keeper service was Rs.13,66,286/-. The tax payable is Rs.1,68,873/-. The total tax payable is Rs.12,40,736/-. The pre-deposit made was Rs.53,79,000/-. The excess in balance is Rs.41,38,264/-.

Taking into account the aggregate amounts leviable to tax in all the six appeals and the deposits made, it is submitted that the Institute is required to pay only a further amount of Rs.21,65,134/-.

The appellant institute is also required to pay the required interest as may be calculated by the authorities.

3. On the other hand, Ld. A.Rs Shri Balasubramanian and Shri Arunkumar, on behalf of Revenue, support the impugned orders. They submit that the adjudicating authorities have gone into each issue in detail; that the activities carried out by the appellants have been found to be correctly falling under 'Commercial Training or Coaching Service', 'Management Consultancy Service', 'Mandap Keeper Services' and 'Renting of Immovable Property Service', in line with the statutory provisions as in force during the relevant periods of dispute.

4. Heard both sides. We find some merit in the plea of the appellants that in respect of "Commercial Training or Coaching Services" carried out by them, the amount received from grants-in-aid is not taxable . The appellants have conceded their tax liability under "Commercial Training or

Coaching service" in respect of fees collected from participants in other programmes. However, at the same time, they argue that upto 27.02.2010 even the amount received from participants is not liable to tax since by Notification No.24/2004-CE dt. 10.09.2004, the vocational training given for improving skills, although not recognized, is exempted.

5. It has been consistently held by higher appellate forums that there can be no liability to service tax in respect of training programmes conducted on the basis of grants-in-aid received by the institutions set up by the Government for specific objectives. The Tribunal in the case of *Apitco Ltd. Vs CST Hyderabad* – 2010 (20) STR 475 (Tri.-bang.) has set aside the demand of service tax holding that service tax is not leviable on the grants-in-aid received by the assessee from the Central and State Governments given as project implementing agency of the Government. The relevant portions of the Tribunal's order are extracted herein below :-

> "**3.** The assessee, namely M/s. APITCO Ltd., is an organization promoted jointly by several financial institutions including the Andhra Pradesh State Industrial Development Corporation and nationalized and other banks. The assessee registered themselves as 'consulting engineers' with the department as early as in 1997 for the purpose of payment of service tax. Ever since then, they have been paying service tax as consulting engineers on the amounts collected from their clients as a consideration for consulting engineer's service. During the period of dispute (2001-2002 to 2007-2008), they received grants-in-aid from the Central and State Governments for implementation of welfare schemes for various sections of society, such as minorities, poor villagers etc. These schemes were wide-ranging. In some cases, the assessee as an implementing agency for the Governments concerned was required to execute micro-enterprises development projects. Other projects which they were required to implement on behalf of the Government concerned included training programmes, technology facilitation, development of industry clusters, infrastructure planning, tourism projects, project planning, seminars and work shops, environment management and energy management. For the implementation of each of these welfare schemes for the benefit of one

or the other sections of the society, the governments concerned paid grants-in-aid to the assessee. This payment was often made in instalments, each instalment having been paid upon production of utilization certificate by the assessee. The assessee did not pay service tax on these amounts, while they paid service tax on the consideration received from non-government agencies for advice, consulting or technical assistance rendered to them, such payments of tax being under the head "consulting engineer's service." The department wanted to levy service tax on the grants-in-aid received by the assessee from the government for implementation of the latter's welfare schemes under the head "scientific or technical consultancy" under Section 65(105)(za) of the Finance Act, 1994 read with Section 65(92) of the Act. This taxable service was introduced with effect from 16-7-2001 and defined as "service provided or to be provided to a client by a scientist or technocrat or any science or technology institution or organization in relation to scientific or technical consultancy." This definition of the taxable service covers the period of dispute in this case. Section 65(92), as this provision stood originally, reads thus : "Scientific or technical consultancy" means any advice, consultancy, or scientific or technical assistance, rendered in any manner either directly or indirectly by a scientist or technocrat or any science or technology institution or organization, to a client, in one or more disciplines of science or technology." The department took the view that, in the implementation of the governmental schemes, the assessee was rendering "scientific or technical consultancy" service to the governments concerned. It is this view which made its way into the show-cause notices and the subsequent proceedings which culminated in the Commissioner's orders.

… …. …..

6. We have given careful consideration to the submissions. It is not in dispute that the assessee-company had implemented welfare schemes for the Central and State governments for the benefit of the poor or otherwise vulnerable/weaker sections of the society and collected grants-in-aid from the governments concerned. It is not in dispute that these grants-in-aid had been totally utilized for implementing the welfare schemes. Nothing over and above these grants-in-aid was received by the assessee from any of the governments. In other words, the assessee did not receive any consideration for "any service' to the governments. Therefore, we hold that, in the implementation of the Governmental schemes, the assessee as implementing agency did not render any taxable "service" to the government. The department seems to be considering the Governments to be "clients" of APITCO. The question now is whether there was "service provider-client" relationship between the assessee and the governments. Here, again, the nature of the amounts paid by the governments to the assessee is decisive. A client must not only pay the expenses of the service but also the consideration or reward for the service to the service provider. Admittedly, in the present case, there was no payment, by any government to the assessee, of any amount in excess of what is called "grant-in-aid". Thus any service provider-client relationship between the assessee and the governments is ruled out. It is true that the assessee had executed the governmental schemes mainly through their engineers (technocrats) but this was not enough for the revenue to bring the assessee within the ombit of "scientific or technical consultancy" as clearly held by this Bench in the case of *Administrative Staff college of India* (supra). An organization rendering "scientific or technical consultancy" service under Section 65(105)(za) of the Finance Act 1994 must be a science or technology institution. The assessee-company has not been shown to be such an institution. Moreover, the revenue has failed to show that any scientific or technical advice or consultancy or assistance was rendered by the assessee to the governments. Many of the activities in question, such as micro-enterprises development, training programmes, project planning, infrastructure planning etc., are apparently in the nature of projects involving application of social science principles. The revenue has not shown that any techniques or principles of pure and applied sciences were applied in the implementation of the governmental schemes by the assessee. In the case of *Administrative Staff College of India* (supra), this Bench held that, as the research activities of the assessee (Administrative Staff College) were related to social science, they would not be within the ambit of "scientific or technical consultancy" and hence no service tax could be levied under that category, which view is squarely applicable to the facts of the present case. The view taken by the Tribunal in the above case stood affirmed by the Apex Court in the above case with the dismissal of the department's Civil Appeal filed against the Tribunal's Order.

7. For the reasons noted above, we hold that any amount of service tax is not leviable on the grants-in-aid received by the assessee from the governments, as project-implementing agency of the governments , during the period of dispute. The assessee has also made out a good case on the ground of limitation against a major part of the demand of duty raised in the first show-cause notice. As early as in January 2004, the assessee had furnished all the relevant facts to the department through a letter addressed to the jurisdictional Assistant Commissioner. Later on, in 2006, they stated all these facts once again in a letter addressed to the Superintendent of Service Tax. The show-cause notice in question was issued on 13-6-2006 invoking the first proviso to Section 73(1) of the Finance Act 1994 on the ground of suppression of facts. We have no hesitation to hold that this allegation of suppression of facts by the assessee is not tenable."

The appeal filed by the Department was dismissed by the Hon'ble Apex Court as reported in 2011 (23) STR J 94 (SC). The ratio of *Apitco* case was relied upon by the Tribunal in the case of *Madhya Pradesh Consultancy Organization Ltd. Vs CCE Bhopal* - 2017 (4) GSTL 100 (Tri._Del.) and *Centre for Entrepreneurship Development Vs CCE Bhopal* - 2017 (4) GSTL 338 (Tri.-Del.). We find that number of such programmes have been conducted by the appellants on such grants-in-aid for example, programmes sponsored by Ministry of Heavy Industries and Public Enterprises, Govt of India, Govt of Chattisgarh, Ministry of Environment and Forests, Govt of India, NMDC, Govt of India, KVIC, Govt of India, NABARD, Andhra Bank etc. Hence we have no hesitation in holding that in respect of coaching / training programmes conducted by the appellants against grants received by them from the Government, there can be no tax liability. In the circumstances, we are of the opinion that it would be in the interest of justice to remand the matter, in respect of the tax liability demanded under “Commercial Coaching or Training Services” in all these appeals. Needless to say, in such *de novo* proceedings, the adjudicating authority should take into account the observations supra as also the appellants contentions made in paras (2.1 & 2.2) on this issue. Appellants should be given suitable opportunities to present their case in a personal hearing and should also be permitted to submit additional submissions or evidence, if any, in support of their case. The appeals in respect of the dispute on tax liability on commercial coaching and training services thus are allowed by way of remand on above terms.

6. Appellants have conceded tax liability in respect of Mandap Keeper services, Management Consultancy Services and Renting of Immovable Property Services. Accordingly, the amount of tax liability with interest confirmed and demanded by the adjudicating authorities in the impugned orders are sustained. In consequence, the appeals filed by the appellants in respect of these services are dismissed as not pressed.

7. Coming to the issue of penalties, there is no gainsaying that the entire issue has arisen due to bonafide belief of the appellants that being a national institute set up by the Government their activities would not be exigible to service tax. We are also of the opinion that no malafide or devious intent can be ascribed to the appellant for failure to discharge tax liability in respect of the above services to the extent applicable. Obviously, there was reasonable cause for failure on the part of appellant in not discharging their tax liability. This being so, we hold that imposition of

penalties on the appellants under the Finance Act, 1994 on the appellants would be too harsh and unjustified. We therefore set aside these penalties.

8. Appeals are disposed of on above terms.

(operative part of the order pronounced in open court)

M.V.RAVINDRAN
MEMBER (JUDICIAL)

MADHU MOHAN DAMODHAR
MEMBER (TECHNICAL)

vrg