CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD
REGIONAL BENCH - COURT NO. – I

Service Tax Appeal No. 21936 of 2014
(Arising out of **Order-in-Original** No.26/2014 – S.Tax dated 10.03.2014 passed by Commissioner of Central Excise, Customs & Service Tax, Guntur)

M/s Superwhizz Professional Pvt Ltd., .. **APPELLANT**
D.No. 39-1-89,
Labbipet,
Vijayawada,
Krishna District,
Andhra Pradesh – 520 010.

VERSUS

Commissioner of Central Tax Guntur - GST .. **RESPONDENT**
P.B.No.331,
C.R. Building,
Kannavari Thota,
Guntur,
Andhra Pradesh – 522 004.

WITH

Service Tax Appeal No. 23689 of 2014
(Arising out of **Order-in-Original** No.GUN-EXCUS-000-COM-061- S.Tax dated 09.09.2014 passed by Commissioner of Central Excise, Customs & Service Tax, Guntur)

M/s Superwhizz Professional Pvt Ltd., .. **APPELLANT**
D.No. 39-1-89,
Labbipet,
Vijayawada,
Krishna District,
Andhra Pradesh – 520 010.

VERSUS

Commissioner of Central Tax Guntur - GST .. **RESPONDENT**
P.B.No.331,
C.R. Building,
Kannavari Thota,
Guntur,
Andhra Pradesh – 522 004.

AND

Service Tax Appeal No. 30516 of 2018
(Arising out of **Order-in-Appeal** No.GUN-EXCUS-000-APP-220-17-18 dated 28.02.2018 passed by Commissioner of Central Tax & Customs (Appeals), Guntur)

M/s Superwhizz Professional Pvt Ltd., .. **APPELLANT**
D.No. 39-1-89,
Labbipet,
Vijayawada,
Krishna District,
Andhra Pradesh – 520 010.

VERSUS

Commissioner of Central Tax Guntur - GST .. **RESPONDENT**

P.B.No.331,
C.R. Building,
Kannavari Thota,
Guntur,
Andhra Pradesh – 522 004.

APPEARANCE:
Shri Lakshman Kumar, CA for the Appellant.
Shri V.R. Pavan Kumar, Authorized Representative for the Respondent.

**CORAM: HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)
HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)**

FINAL ORDER No. A/30007-30009/2026

Date of Hearing: 05.08.2025
Date of Decision: 09.01.2026

[ORDER PER: A.K. JYOTISHI]

M/s Superwhizz Professionals Private Ltd., (hereinafter referred to as appellant) are in appeal appeals against the Orders passed by the Adjudicating Authority as well as the order passed by the Commissioner (Appeals), who upheld the order of the Original Adjudicating Authority. In the Order-in-Original dated 10.03.2014, the Commissioner has confirmed the demand of Rs. 90,00,715/- along with penalty under Section 78, whereas, in appeal no. ST/23689/2014, an amount of Rs. 99,22,928/- has been confirmed along with penalty under Section 76 and in appeal no. ST/30516/2018, an amount of Rs. 17,97,233/- along with penalty under Section 76 has been confirmed and further upheld by the Commissioner (Appeals). In all these appeals, the common issue involved is whether activity of sale of books by the appellant is taxable under the category of Commercial Training or Coaching Service (CTCS) when the sale value of books are separately identified, documented and recorded in the invoice issued. Additionally, whether the appellant is eligible for deduction, on account of sale of books as provided in terms of Notification No. 12/2003-ST dated 20.06.2003.

2. The brief fact relevant to the case is that the appellant are providing coaching to Chartered Accountant students and also sell books that are relevant to said coaching. The Department, relying on the Circular No. 59/8/2003-ST dated 20.06.2003 demanded the service tax on CTCS by including the value of the books sold by them. The issue framed by the Adjudicating Authority was whether the cost of the books supplied by the institute for imparting coaching/training is includable in the gross value of the CTCS or otherwise. Adjudicating Authority observed that the appellant has denied that they were purchasing the books and materials from certain entities who have prepared them and the subsequent transaction undertaken by them i.e. supplying the same to their students for a consideration therefore amounts to sale and that the consideration received towards the sale is shown separately in the Profit & Loss Account and also invoices are being issued separately and therefore they are eligible for benefit under Notification No. 12/2003-ST. He has observed that any Coaching or Training for a course will be meaningful only with the relevant study material and purpose of imparting a coaching and therefore coaching material is an integral part of the service of coaching so as to make the coaching meaningful and better for the benefit of students. He has relied on Circular No. 59/8/2003-ST dated 20.06.2003 to hold that exclusion shall applied to the sale value of only standard text books, which are priced and that any study material or written text provided by such institute as part of the service, which does not satisfy the above criteria cannot be excluded and will be subjected to service tax.

3. Therefore, the Adjudicating Authority has essentially denied the benefit of notification, supra, on the ground that the study material is nothing but part of the coaching that is being imparted by way of printed materials and therefore can be treated as an extension of class room and hence it’s value has

to be included in the gross value for charging service tax on aforesaid service. Moreover, the nature of material supplied included the model daily test papers, model weekly test papers, model exam papers, bio-scope – class room & exam techniques and BRS – Brain Review Status and thus these materials are model papers, test papers etc., and cannot be considered as separate from coaching. He has also distinguished the case law cited by the appellant. He has also relied on certain other case laws, wherein, it has been held in the context of Notification No. 12/2003-ST that in case of CTCS only the sale value of standard Text Books, which are priced are excluded from the value of taxable service. He has relied on the following judgments:

a) Soni Classes Vs CCE, Jaipur-I [2013 (30) STR 92 (Tri-Del)]
b) Fitzee Ltd., Vs CST, Delhi [2012 (25) STR 24 (Tri-Delhi)]
c) Career Launcher India Ltd., Vs CST, Delhi
[2012 (26) STR 55 (Tri- Delhi)]
d) Sayaji Hotels Ltd., Vs CCE, Indore [2011 (24) STR 177 (Tri-Del)]

4. Learned CA on behalf of the appellants is mainly contesting that as a whole study material is eligible for deduction under Notification No. 12/2003-ST. He further submits that the sale of study material is not an integral to coaching service, as the same can be imparted even without using appellant's material and by using the other material issued by ICAI. Further, it is not mandatory for the student to take study materials from the appellant and it is only at the option of the students and there are many cases where the students have taken the material but did not take any coaching. He is also contesting that the service tax is applicable on the value of the service and the supply of study material does not involve any provision of service as it is only sale of books and consequently cannot be treated as provision of service. Further, when there is a difference between the binding CESTAT decisions and

CBIC Circular, the CESTAT decision will prevail as confirmed by the Bombay High Court in the case of Century Rayon Vs Union of India [2002 (142) ELT 319 (Bom)], Sunflag Iron & Steel Co. Ltd., Vs Additional Collr. Of C. Ex., Nagpur [2003 (162) ELT 105 (Bom)]. In so far as the demand for the period July 2012 is concerned, he is submitting that Section 65B(44) of Finance Act 1994 excludes any activity which constitutes, inter alia, a transfer of title in goods or immovable property by way of sale, gift or any other matter. He is also contesting invocation of extended period and imposition of penalty.

5. Heard both the sides and perused the records.

6. We find that the Department has mainly relied on Circular No. 12/2003-ST to include the value of the books and materials sold in the gross value for charging service tax under the category of CTCS. In this case, admittedly, the books and materials were being sold to various students and there is a separate billing for the same as well as it's accountal in the Profit & Loss Account of the appellant. There is nothing on record that the said materials and books were being compulsorily sold to students and it was an option to the students, who may purchase and use such materials. No doubt, these materials were not any standard text books or for that matter carrying any specific price thereon and were not procured from any independent publisher etc. It is also an admitted fact that said books were prepared by their group company and have not been basically purchased from any other agency etc. Notification No. 12/2003-ST, supra, as well as provisions under Section 65B(44) discussed supra, clearly excludes certain value wherever there is an involvement of sale of goods. It is precisely for this reason, notification no. 12/03 was issued which got rescinded with effect from 20.06.2012 after coming into force of Section 65B(44). The only condition for availing Notification No. 12/2004-ST is that there should be a documentary proof

indicating the value of the said goods and materials and that no credit of duty paid on such goods and materials sold, has been taken under the provisions of the Cenvat Credit Rules, 2004. We find, as far as first condition is concerned, the appellants have given enough proof that the goods were being under the cover of specific invoice, as distinguished from the invoice raised for coaching fee and secondly the income generated out of such sale were duly accounted for separately as Trading profit in their Profit & Loss Account. They have also admitted that such sales were leviable to VAT, however, it was exempted under the provisions of APVAT and that is why no VAT had actually been paid. As far as the second condition, it is not relevant for this appeal as Department has not alleged that they were availing any CENVAT credit.

7. We find that the reliance placed by the appellant on the judgment of Cerebral Learning Solutions Pvt Ltd., Vs Commr of C.Ex, Indore [2013 (32) STR 379 (Tri-Del)] is applicable to the facts of the case. In this case, the Tribunal was dealing with similar factual matrix where the appellant was running institute for providing the coaching and paying service tax thereon and was also engaged in selling the printed materials. Thereafter, taking into account, the appellant's own case, as well as judgment in the case of Sayaji Hotels Ltd., supra, it was held that such inclusion of value of sale of printed material into the gross value was not tenable and therefore demand was set aside. This order was appealed by the Revenue before the Hon'ble Supreme Court, which after going through the findings of the Tribunal held that no interference of Court is called for and that they were in complete agreement with the view taken by the Learned Tribunal.

8. Appellants have also relied on catena of other judgments, as follows:

i) Commissioner of Service Tax, Delhi Vs RAU Study Circle [2017-TIOL-76-CESTAT-DEL], where similar issue was involved. The appeal of the Revenue was dismissed.

ii) In the case of Brilliant Tutorials Pvt Ltd., Vs Commissioner of Service Tax, New Delhi [2017-TIOL-3213-CESTAT-DEL] relying on the judgment of Cerebral Learning Solutions Pvt Ltd., the appeal was allowed

iii) In the case of FITJEE Ltd., Vs CST, Delhi [2017 (1) TMI 1602 – CESTAT New Delhi] where interpretation of the same notification was involved, the relief was given to the appellant

iv) In the case of FITJEE Ltd., Vs CST, Kolkata [2024 (11) TMI 1222 – CESTAT Kolkata]. This issue was again examined by the Tribunal. Similar view was upheld and abatement was allowed in respect of books and study material sold

9. We also find that there is a force in the argument that the scope of notification cannot be curtailed by the Circular dated 20.06.2003 and that the notification cannot restrict exemption only to standard textbooks or which are priced etc. We, however, do not agree with the contention that this value per se was not includable in the gross value for providing the coaching and commercial training services by the appellant. Firstly, these books and materials were sold to their students even though some of them might not have purchased the same but all the study materials were relevant for the said coaching and these were helpful in enlarging their scope of classroom training being provided by the appellant and therefore in the first place the said value was includable in the gross value, even though they might have billed it separately. However, the fact remains that Notification No. 12/2003-ST allows exclusion of value of certain goods which are forming part of the service, subject to compliance with certain conditions. In this case, the appellants have clearly established that they were billing separately and once they were billing the same, obviously there was a price attributable to such materials, even though they might not have been independently or specifically stamped or mentioned on the said books or materials. Thus, relying on various judgments including the Cerebral Learning Solutions Pvt Ltd., supra, as upheld by the Hon'ble Supreme Court, and the factual matrix, we find that in these appeals,

the appellants would be entitled for the benefit of Notification No. 12/2003-ST for exclusion of value pertaining to study material etc., sold by the appellant under the cover of separate invoice. Accordingly, the orders passed by the Adjudicating Authority, as well as Commissioner (Appeals) are liable to be set aside.

10. Appeals allowed.

(Pronounced in open court on 09.01.2026)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

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