IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 71405 of 2013

(Arising out of Order-in-Original No. 08-09/S.Tax/Commr/2013 dated 21.08.2013 passed by the Commissioner, Central Excise & Service Tax, 143, New Baradwari, Sakchi, Jamshedpur – 831 001)

M/s. Xavier Labour Relation Institute **: Appellant**
C.H. Area, Bistupur,
Jamshedpur – 831 001

VERSUS

Commissioner of Central Excise and Service Tax **: Respondent**
143, New Baradwari, Sakchi,
Jamshedpur – 831 001

APPEARANCE:

Shri S.P. Majumder, Advocate for the Appellant

Shri J. Chattopadhyay, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 75549 / 2024

DATE OF HEARING / DECISION: 12.03.2024

Order : [Per Shri Ashok Jindal]

The appellant is in appeal against the impugned order.

2. The facts of the case are that the appellant is engaged in providing education in various fields of management which is acclaimed not only in the country, but also outside India since 1949. Courses provided by the appellant are approved by the All India Council for Technical Education (AICTE) which is a statutorily established body

3. Demand of Service Tax was sought to be confirmed against the appellant by issuance of two Show Cause Notices dated 01.10.2012 and

04.10.2012 for the periods 2007-08 to 2010-11 and 2011-12 respectively for the following expenses incurred by the appellant: -

i. Reimbursement of travel expenses to foreign faculty – under the category of 'commercial training or coaching service'.
ii. Expenses towards faculty exchange programme - under the category of 'commercial training or coaching service'.
iii. Payment for accreditation / membership charges to various global institutes - under the category of 'club or association service'.
iv. Payment for registration fee for attending conferences abroad by the faculty - under the category of 'club or association service'.
v. Payment regarding participation of their students in international immersion programme in different countries across the world - under the category of 'club or association service'.

4. The matter was adjudicated and the demand of Service Tax came to be confirmed against the appellant. Aggrieved from the said order, the appellant is before us.

5. The Ld. Counsel appearing on behalf of the appellant submits that 'reimbursement of travel expenses to foreign faculty' and 'expenses towards faculty exchange programme' are not covered under the head of 'commercial training or coaching service' as these are expenses incurred by the appellant; these charges were paid to the foreign faculties coming to their institute to teach their students in AICTE approved business management / personal management or industrial relation programmes. It is

contended that 'commercial training or coaching service' does not cover the said expenses as it means that there should be "commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than the sports, with or without issuance of a certificate, and includes coaching or tutorial classes, but does not include pre-school coaching and training centre or any institute or establishment which issues any certificate or diploma or degree or any educational qualification recognized by law for the time being in force"; admittedly, their programmes were recognized by law through the AICTE and they were imparting degrees; it is a reimbursement of expenses incurred by the appellant towards the faculty for providing education to their students, which does not fall under the category of 'commercial training or coaching service'. Thus, it is contended that on these services, the appellant are not liable to pay Service Tax.

5.1 With respect to the other payments viz. payment for accreditation or membership fees for association with various global institutes in the world, payment for registration fee for attending conferences abroad by the faculty and payment regarding participation of their students in international immersion programme at different universities in the world, it is the submission of the Ld. Counsel for the appellant that the endeavour of acquiring more knowledge and as a measure of supporting research, the faculties of the appellant were allowed to become members of some professional bodies like Decision Sciences Institute, Strategic Management Society and Ivy League Publishing and also to subscribe to professional journals or books; the appellant has been found to incur accreditation / membership fees or registration charges and such charges were made by the appellant as part of the remuneration package of the faculties, who either made the payments directly for the above or as per their requisition, the appellant made such payments on their behalf. Therefore, it is argued that the said services do not fall under the ambit of 'club or association service'.

5.2 He therefore prayed that the impugned order qua the demand of Service Tax be set aside.

6. On the other hand, the Ld. Authorized Representative appearing on behalf of the Revenue supported the impugned order.

7. Heard the parties.

8. We find that the Show Cause Notices proposed to demand Service Tax under the category of 'commercial training or coaching service' for 'reimbursement of travel expenses to foreign faculties' and 'expenses towards foreign exchange programme' under reverse charge mechanism. We find that the expenses have been incurred by the appellant for providing good faculties to their students and for that, the appellant is paying charges and not collecting any charge from their students for the said coaching. Moreover, the appellant's coaching institute is recognized by the AICTE and issues degrees to the students. In these circumstances, the said expenses do not form part of 'commercial training or coaching services'. Accordingly, we hold that the appellant is not liable to pay Service Tax on the said reimbursement of expenses.

9. Further, we find that demand of Service Tax was sought to be confirmed against the appellant under the category of 'club or association service' for the

'payments of accreditation / membership charges to various global institutes', 'payment for registration fee for attending conferences abroad by the faculties' and 'payments regarding participation of their students in international immersion programmes in universities across the world'. We find that the said expenses have been incurred by the appellant for providing their main service of education, to their students. The appellant-institute is not providing any commercial training/education. Moreover, their programme has been recognized by the AICTE and they are also issuing degrees to the students. In these circumstances, the said expenses cannot be classified as 'club or association service'. Therefore, we hold that the appellant is not liable to pay Service Tax under the head of 'club or association service' for the said services under reverse charge mechanism. Accordingly, the said demand is also set aside.

10. In the result, the whole of the demand raised against the appellant is set aside.

11. Therefore, we set aside the impugned order and allow the appeal filed by the appellant.

(Operative part of the order was pronounced in open court)

Sd/-
(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sd/-
(ASHOK JINDAL)
MEMBER (JUDICIAL)

Sdd