

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

REGIONAL BENCH – COURT NO. 1

**Service Tax Appeal No. 76554 of 2016**

(Arising out of Order-in-Original No. 15/COMMR/ST-I/KOL/2016-17 dated 08.06.2016 passed by the Principal Commissioner of Service Tax-I, KendriyaUtpad Shulk Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata – 700 107)

**M/s.Orion Edutech Private Limited** : **Appellant**  
Scheme-VII M, 163/1, VIP Road, 1<sup>st</sup> Floor, Kankurgachi,  
Kolkata – 700 054

**VERSUS**

**Principal Commissioner of Service Tax** : **Respondent**  
Service Tax-I Commissionerate,  
180, Shantipally, Rajdanga Main Road,  
Kolkata – 700 107

**WITH**

**Service Tax Appeal No. 76558 of 2016**

(Arising out of Order-in-Original No. 16/COMMR/ST-I/KOL/2016-17 dated 09.06.2016 passed by the Principal Commissioner of Service Tax-I, KendriyaUtpad Shulk Bhawan, 180, Shantipally, Rajdanga Main Road, Kolkata – 700 107)

**M/s. Orion Edutech Private Limited** : **Appellant**  
Scheme-VII M, 163/1, VIP Road, 1<sup>st</sup> Floor, Kankurgachi,  
Kolkata – 700 054

**VERSUS**

**Principal Commissioner of Service Tax** : **Respondent**  
Service Tax-I Commissionerate,  
180, Shantipally, Rajdanga Main Road,  
Kolkata – 700 107

**WITH**

**Service Tax Appeal No. 75133 of 2017**

(Arising out of Order-in-Appeal No. 250/ST-I/KOL/2016 dated 24.10.2016 passed by the Commissioner of Central Excise (Appeal-I), Kolkata, 169, A.J.C. Bose Road, Bamboo Villa, 4<sup>th</sup> Floor, Kolkata – 700 014)

**M/s. Orion Edutech Private Limited** : **Appellant**  
Scheme-VII M, 163/1, VIP Road, 1<sup>st</sup> Floor, Kankurgachi,  
Kolkata – 700 054

**VERSUS**

**Principal Commissioner of Service Tax** : **Respondent**  
Service Tax-I Commissionerate,  
180, Shantipally, Rajdanga Main Road,  
Kolkata – 700 107

Appeal No(s): ST/76554,76558/2016  
& ST/75133&75155/2017-DB

**AND**

**Service Tax Appeal No. 75155 of 2017**

(Arising out of Order-in-Appeal No. 251/ST-I/KOL/2016 dated 24.10.2016 passed by the Commissioner of Central Excise (Appeal-I), Kolkata, 169, A.J.C. Bose Road, Bamboo Villa, 4<sup>th</sup> Floor, Kolkata – 700 014)

**M/s. Orion Edutech Private Limited**

**: Appellant**

Scheme-VII M, 163/1, VIP Road, 1<sup>st</sup> Floor, Kankurgachi,  
Kolkata – 700 054

**VERSUS**

**Principal Commissioner of Service Tax**

**: Respondent**

Service Tax-I Commissionerate,  
180, Shantipally, Rajdanga Main Road,  
Kolkata – 700 107

**APPEARANCE:**

Shri Arun Agarwal, Chartered Accountant,  
Smt. Pinki Agarwal, Chartered Accountant,  
For the Appellant

Shri R.K. Agarwal, Authorized Representative,  
For the Respondent

**CORAM:**

**HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)**

**HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)**

**FINAL ORDER NOS. 77190-77193 / 2025**

DATE OF HEARING: 04.08.2025

DATE OF DECISION: 07.08.2025

**ORDER: [PER SHRI K. ANPAZHAKAN]**

Service Tax Appeal No. 75133 of 2017 has been filed against the Order-in-Appeal No. 250/ST-I/KOL/2016 dated 24.10.2016 passed by the Ld. Commissioner of Central Excise (Appeal-I), Kolkata wherein the demand of Service Tax of Rs.14,71,596/- confirmed vide Order-in-Original No. 37/JC/ST/Kol/2010-11 dated 20.07.2010 has been upheld, for the period from 2006-07 to 2007-08.

1.1. Service Tax Appeal No. 76554 of 2016 has been filed against the Order-in-Original No. 15/COMMR/ST-I/KOL/2016-17 dated 08.06.2016 passed by the Ld. Principal Commissioner of Service Tax-I, Kolkata, wherein the demand of Rs.1,20,70,867/- and recovery of CENVAT Credit of Rs.11,78,426/-, has been confirmed, for the period from 2009-10 to 2010-11.

Service Tax Appeal No. 76558 of 2016 has been filed against the Order-in-Original No. 16/COMMR/ST-I/KOL/2016-17 dated 09.06.2016 passed by the Ld. Principal Commissioner of Service Tax-I, Kolkata, wherein the demand of Rs.4,32,40,288/- and recovery of CENVAT Credit of Rs.26,06,995/-, has been confirmed, for the period from 2011-12 to 2013-14.

1.3. Service Tax Appeal No. 75155 of 2017 has been filed consequent to upholding the rejection of their VCES-1 application by the Ld. Commissioner of Central Excise (Appeal-I), Kolkata, vide Order-in-Appeal No. 251/ST-I/KOL/2016 dated 24.10.2016. The period involved is from April 2011 to December, 2012, which is overlapping with the periods involved in the appeals mentioned above.

2. All these appeals are having common issues and therefore, are taken up together for decision by way of a common order.

3. The facts of the case are that M/s. Orion Edutech Private Limited (hereinafter referred to as the "appellant") having their registered office at Scheme - VII M, 163/1, VIP Road, 1st Floor, Kankurgachi, Kolkata-700054, obtained centralized registration under service tax vide registration number

AAACO9258KST001. They maintained centralised accounting system at this premises. They are engaged in providing vocational training courses approved by NSDC and NCVT, along with franchise services (income from royalty), recruitment of candidates after imparting skill and knowledge, sale of books and periodicals etc. They have admittedly paid service tax on Franchisee Fees, Royalty income etc and disclosed the same in their ST-3 returns. In respect of other incomes like charges received for conducting NSDC and NCVT approved courses, Government Revenue NSDC approved courses, UGCC recognized courses, sale of books and periodicals etc., under the bona fide impression that no Service Tax was leviable, the appellant did not discharge Service Tax.

4. Show Cause Notices were issued inter alia proposing demands of Service Tax on the differential amount determined by comparison between the income reported in the appellant's books of accounts and the amount disclosed in their S.T.-3 Return and VCES application, which have been confirmed by the authorities below. The details of the Show Cause Notices and the corresponding orders of the lower authorities are as under: -

| Appeal No.    | SCN                                            | OIO/OIA                                                                          |
|---------------|------------------------------------------------|----------------------------------------------------------------------------------|
| ST/75133/2017 | V(12)30/SIV/ST/KOL/2008/15334 dt. 17.06.2009   | 37/JC/ST/Kol/20 10-11 dated 20.07.2010<br><br>250/ST-I/KOL/2016 dated 24.10.2016 |
| ST/76554/2016 | V(15)294/ST-Adjn/Commr/14/19846 dt. 25.10.2014 | 15/COMMR/ST-I/KOL/2016-17 dated 08.06.2016                                       |
| ST/76558/2016 | V(15)77/ST-I/Adjn/Commr/15/6700 dt. 07.08.2015 | 16/COMMR/ST-1/KOL/2016-17 dated 09.06.2016                                       |

Appeal No(s): ST/76554,76558/2016  
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|               |                                                         |                                                                                                  |
|---------------|---------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| ST/75155/2017 | V(30)841/Orion/VCES/ST/Tech/Kol/13/24124 dt. 26.11.2014 | V(30)841/Orion/VCES/ST/Tech/Kol/13/6974 dt. 25.02.2015<br><br>251/ST-I/KOL/2016 dated 24.10.2016 |
|---------------|---------------------------------------------------------|--------------------------------------------------------------------------------------------------|

5. During the course of hearing, the Ld. Counsel appearing on behalf of the appellant submitted that Service Tax is leviable only when there is a clear identification of the service provider, service recipient, nature of service provided, consideration paid for the same, etc., and in absence of the same, Service Tax cannot be demanded. In support of this, he placed reliance on the following judgements: -

- *Lord Krishna Real Infra P. Ltd. [2019 (2) TMI 1563 – CESTAT, Allahabad]*
- *South Eastern Coalfields Ltd. [(2024) 17 Centax 245 (Tri. – Del.)]*
- *Kush Constructions [2019 (5) TMI 1248 – CESTAT, Allahabad]*

5.1. The appellant also submits that in these cases, the Department has failed to discharge its burden of proof, to establish their taxability; as no evidence has been adduced by the Department in support of the alleged taxability of the services rendered by the appellant, the demand thereof cannot sustain. In support of this contention, the appellant has relied on the following decisions: -

- *Lord Krishna Real Infra P. Ltd. [2019 (2) TMI 1563 – CESTAT, Allahabad]*
- *Welcome Distilleries Pvt. Ltd. [2025 (7) TMI 409 – CESTAT, New Delhi]*

5.2. It is the appellant's further contention that services rendered by a Vocational Training Institute is exempt under Notification No. 24/2004-S.T. dated 10.09.2004, for the periods 2006-07, 2007-08 and 2009-10. It is submitted in this regard that they impart vocational training skills to enable the trainee to seek employment or undertake self-employment, directly after such training or coaching; that the training provided by the appellant was for 'call centre' operations, which equips the students with necessary skills to secure employment in the call centre industry; such services are covered under the ambit of Notification No. 24/2004-S.T. dated 10.09.2004. In this regard, reliance is placed by the appellant on the decision of CESTAT, New Delhi in the case of *Centre for Research and Industrial Staff Performance* dated 15.12.2016.

5.2.1. With respect to the demand of Service Tax on the vocational training rendered by them for the periods 2010-11, 2011-12 and 2012-13 (up to June, 2012), it is the appellant's submission that the exemption was available in relation to Modular Employable Skill courses approved by the National Council of Vocational Training (NCVT), by a vocational training provider registered under the Skill Development Initiative Scheme with the Directorate General of Employment and Training, Ministry of Labour and Employment, Government of India; they have registered for modular employable skill courses and obtained certificate from the DGET. In this regard, the appellant states that such certificate obtained was in the name of 'Orion Learning Centre, Barasat', which is another office of the appellant-company i.e., M/s. Orion Edutech Private Limited and it does not

represent a separate entity. Accordingly, the appellant contends that the certificate received by them entitles them to get the benefit of the exemption as provided under the relevant Notification. In support, the appellant have submitted a certificate from a Chartered Accountant and an Affidavit from the Director, to the effect that 'Orion Learning Centre, Barasat' is another office of M/s. Orion Edutech Private Limited, the appellant herein.

5.2.2. With respect to the demands on vocational training for the period from 2012-13 to 2013-14, it is the appellant's contention that Entry (I) of the Negative List provided the exemption for vocational educational courses wherein the similar entry as existed till 30.06.2012, was there. Apart from the above, it is submitted that approved vocational courses also included a course run by an institute affiliated to the National Skill Development Corporation set up by the Government of India; the appellant submits in this regard that in some cases, they have provided some of the courses under affiliation with universities recognized by UGC. In this regard, the appellant has enclosed the NSDC certificates and proof of affiliation with universities. It is the appellant's plea that the Department has sought to deny the benefit of exemption merely on the basis that address mentioned in the certificates were not there in the registration certificate i.e., S.T.-2, in terms of Rule 4(2) of the Service Tax Rules. However, the appellant points out that they are having a centralized registration and such centralized registration covers all their offices. On this score, the appellant has produced a Chartered Accountant's Certificate to the effect that centralized accounting

procedure was being maintained and an Affidavit from the Director to the effect that all operations from other parts are integral to the appellant-company.

5.3. In all these appeals, the appellant has submitted that the Show Cause Notice was issued on the basis of difference between S.T.-3 and books of accounts whereas the order travelled beyond the scope of the said notices without bringing on record any contrary proof of taxability or ground for denial of exemption. Thus, the appellant contends that on this count, the demands are not sustainable.

5.4. With regard to the demand of service tax of Rs.15,69,720/-, confirmed under reverse charge mechanism on Director's remuneration, it is submitted that the demand is not sustainable as the said remuneration is in the nature of salary, on which TDS is deducted under Section 192 of the Income Tax Act. To this effect, the appellant has also enclosed the Income Tax Returns of the Directors.

5.5. With regard to the demand of Service Tax to the tune of Rs.27,00,302/-, on the sale of books and periodicals, it is the appellant's contention that no Service Tax can be demanded on such goods as the activity undertaken is 'sale of goods' and no provision of service is involved. In this case, the appellant contends that the Service Tax has been levied merely on the ground that the address mentioned in the certified copy of documents were either of Salt Lake or of Rajarhat Road, which are not registered. Accordingly, the appellant contends that no Service Tax can be demanded on the same.

5.6. On the issue of denial of CENVAT Credit, it is submitted by the appellant that CENVAT Credit has been denied for the year 2009-10 and 2010-11 on the allegation that no documentary evidence had been submitted along with the Chartered Accountant's certificate submitted by the appellant, although the said Chartered Accountant's certificate has been accepted by the Department. It is their contention that the Chartered Accountant's certificate is a valid document issued by a Chartered Accountant after verification of the records; accordingly, the credit cannot be denied to the appellant merely on the ground that no documentary evidence has been attached with the said CA certificate.

5.6.1. As regards the CENVAT Credit denied for the years 2011-12 to 2013-14 on the ground that the address is different from the registered address as per S.T.-2, the appellant submits that since they are having a centralized registration, there is no need to register each and every address; further the Chartered Accountant's certificate shows that the CENVAT Credit has been availed correctly.

5.6.2. Thus, the appellant submits that the denial of CENVAT Credit is not tenable.

5.7. With regard to the Service Tax Appeal No. 75155 of 2017, it is the submission of the appellant that for the VCES filed on 20.12.2013, rejection notice was issued on 26.11.2014, which is not within the prescribed time-limit i.e., 30 days of filing of the VCES application in terms of Sl. No. 12 of Circular No. 170/5/2013 ST dated 08.08.2013. Reliance is placed on the decision in the case of *Barnala Builders & Property Consultants [2014 (35) S.T.R. 52 (Comm.*

*Appl.))];* that the notice misinterpreted the term “same issue”, which does not mean “same services”. Reliance in this regard is placed on Paragraph 2 of Circular No. 174/9/2013-ST dated 25.11.2013 which prescribes that “the concerned Commissioner may ensure that no declaration is rejected on frivolous grounds or by taking a wider interpretation of the conditions enumerated in section 106(2)”. In this regard, it is also pointed out by the appellant that Issue No. 5 in circular No. 170/5/2013 ST dated 08.08.2013 clarifies that issuance of a Show Cause Notice or order of determination for any period prior to October 2007 on an issue would not make a person ineligible to make a declaration under the said scheme on the same issue for the period covered by the scheme; accordingly, the declaration made under VCES is proper. Therefore, the appellant submits that the rejection of their VCES declaration is untenable.

5.8. In view of the above submissions, the Ld. Counsel for the appellant prays for allowing the appeals by setting aside the demands confirmed in the impugned orders as also setting aside the denial of CENVAT Credit availed by them.

6. On the other hand, the Ld. Authorized Representative of the Revenue reiterated the findings in the impugned orders.

7. Heard both sides and perused the appeal records.

8. We find that the appellant has been rendering vocational training courses approved by NSDC and NCVT, along with franchise services (income from royalty), recruitment of candidates after imparting skill and knowledge, sale of books and periodicals etc.

It is observed that the appellant has not paid service tax on the income received for conducting NSDC and NCVT approved courses, Government Revenue NSDC approved courses, UGCC recognized courses, sale of books and periodicals etc. The submission of the appellant is that they were under the bona fide impression that no Service Tax was leviable on the vocational coaching service rendered by them and hence they did not discharge Service Tax.

**Prior to 01.07.2012:**

9. For the period prior to 01.07.2012, the appellant has mainly claimed exemption for vocational training in terms of Notification No. 24/2004-S.T. dated 10.09.2004. For the sake of ready reference, the definition of "vocational training institute" applicable during the relevant period, as provided in the Explanation to the aforesaid Notification, is extracted below: -

*"**vocational training institute**" means a commercial training or coaching centre which provides vocational training or coaching that impart skills to enable the trainee to seek employment or undertake self-employment, directly after such training or coaching;"*

(Emphasis supplied)

9.1. From the above, it is clear that as per the said Notification, a "vocational training institute" means a commercial training or coaching centre which provides vocational training or coaching that impart skills to enable the trainee to seek employment or undertake self-employment, directly after such training or coaching. In the present case, we observe that the appellant impart vocational training skills to enable

the trainee to seek employment or undertake self-employment, directly after such training or coaching. The training provided by the appellant was for 'call centre' operations, which equips the students with necessary skills to secure employment in the call centre industry. Thus, we observe that such services rendered by the appellant are covered under the ambit of Notification No. 24/2004-S.T. dated 10.09.2004.

9.1.1. Thereafter, we observe that the above definition contained in Notification No. 24/2004-S.T. was amended vide Notification No. 03/2010-S.T. dated 27.02.2010, as under: -

*"(i) vocational training institute" means an Industrial Training Institute or an Industrial Training Centre affiliated to the National Council for Vocational Training, offering courses in designated trades as notified under the Apprentices Act, 1961(52 of 1961).*

9.1.2. A perusal of the above Notifications clearly indicates that the services rendered by the appellant fall squarely within the ambit of the above definition provided for "vocational training institute" in Notification No. 24/2004-S.T. dated 10.09.2004, as effective till 01.07.2012.

9.2. In this regard, the appellant has also referred to Notification No. 23/2010-S.T. dated 29.04.2010 (effective till 01.07.2012), by way of which exemption was available in relation to Modular Employable Skill Courses approved by the National Council of Vocational Training, by a vocational training provider registered under the Skill Development Initiative Scheme with the Directorate General of Employment

and Training, Ministry of Labour and Employment, Government of India. The relevant portion of the said Notification is reproduced below: -

*"In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the Finance Act), the Central Government, on being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable service referred to in sub-clause (zzc) of clause (105) of section 65 of the Finance Act, when provided in relation to **Modular Employable Skill courses** approved by the National Council of Vocational Training, by a Vocational Training Provider registered under the Skill Development Initiative Scheme with the Directorate General of Employment and Training, Ministry of Labour and Employment, Government of India, from the whole of the service tax leviable thereon under section 66 of the Finance Act."*

(Emphasis supplied)

9.2.1. The appellant has produced the list of modular employable courses and the certificate issued by the Directorate General of Employment and Training (DGET) and submitted that the vocational training courses undertaken by them falls within the above said definition and hence they are eligible for the said exemption. However, we observe that the authorities below have denied the benefit of exemption in this regard on the ground that the said certificate is issued in the name of 'Orion Learning Centre, Barasat', which is a separate entity.

9.2.2. We find that 'Orient Learning Centre, Barasat', is another office of the appellant-company. In this regard, we have perused the Chartered Accountant's Certificate furnished by the appellant, which is reproduced below: -

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*Sujit De*  
CHARTERED ACCOUNTANTS



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21C, Doctor Lane,  
Kolkata-700 014  
Mob : 99030 31851  
e-mail : de.sujit10@gmail.com

TO WHOMSOEVER IT MAY CONCERN

**Sub: Certificate regarding operational addresses under centralized Service Tax registration of Orion Edutech Private Limited**

This is to certify that we have reviewed the records and operations of M/s. **Orion Edutech Private Limited**, a Private Limited Company with centralized Service Tax Registration Number: **AAAC09258KST001** in service tax regime, then located at 1st Floor, Scheme - VII M, 163/1, VIP Road, Kankurgachi, Kolkata, West Bengal - 700054.

On the basis of such checks as we considered appropriate and on the basis of information and explanations provided to us, we do hereby confirm the following based on our examination of the records and other relevant documents that:

- In addition to its registered office at Kankurgachi, the company provided operational services from various locations, including but not limited to the following:
  - Orion Learning Center Barasat, 84/D, KNC Road, Haritala Mode, 24Pgs (North), Pin -700124
  - 13G(B), Everest House, 46C, Chowringee Rd., Kol-700071
  - 109/110/111 Shoppers Point SV Rd, Andheri(W), Mumbai-400058
  - OMEGA, 5th Floor, Bengal Intelligent Park, GP Block, Sector V, Salt Lake, Kolkata- 700091
  - Orion Edutech Pvt Ltd, Chennai
  - 28, Chinar Park, Rajarhat road, Kolkata- 700157
  - 32 B, Barbourne Rd., 2nd Floor, Kol-1
  - B-2 646, Plot No. 140, Sheesh Mahal Rd., No 7, Banjara Hills, Hyderabad-500034
- That all operations carried out from these addresses, including Barasat, are **Integral parts of the company's** business activities. They function as extensions of its primary place of business and **do not constitute separate legal entities or independent business operations**.
- That all financial transactions, revenues, expenses, and liabilities associated with the services provided from these operational addresses are **centrally accounted for** in the books of **the company**.
- That the centralized Service Tax registration of **the company covers all services** rendered from these operational locations, and the service tax obligations are discharged centrally by **the company**.
- That the employees working at these operational sites are on the payroll of the company, and all related statutory compliances are managed centrally.



This certificate is issued to clarify that all stated operational addresses are part of Orion Edutech Private Limited and are covered under its existing centralized Service Tax registration.

For Sujit De  
Chartered Accountants

*Sujit De*  
CA Sujit De  
Proprietor  
Membership No.: 053447  
UDIN: 25053447BMJO&JA779



Place: Kolkata  
Date: 01/08/2025

10. Thus, from the above, it is evident that 'Orion Learning Centre, Barasat', is not a separate entity. We agree with the submission of the appellant that it is another office of the appellant company. We find that the above certificate clearly indicates that the vocational courses / modular employable skill courses undertaken by the appellant are eligible for exemption in terms of Notification No. 24/2004-S.T. and Notification No. 23/2010-S.T. dated 29.04.2010, till 01.07.2012. Thus, we hold that the demand of service tax confirmed for the period prior to 01.07.2012, by denying the exemptions provided under the above said notifications is not sustainable and hence we set aside the same.

**After 01.07.2012:**

11. For the period after 01.07.2012, the appellant primarily contends that the said services are exempt as per sub-clause (iii) of clause (I) of Section 66D of the Finance Act, 1994 (Negative List), which reads as under: -

*"(I) services by way of-*

*(i)pre-school education and education up to higher secondary school or equivalent:*

*(ii)education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;*

*(iii)education as a part of an **approved vocational education course**;"*

(Emphasis supplied)

11.1. Section 65B of the Act, defines “approved vocational education course” to mean: -

*"(11) "approved vocational education course" means, -*

*(i) a course run by an industrial training institute or an industrial training centre affiliated to the National Council for Vocational Training offering courses in designated trades notified under the Apprentices Act, 1961; or*

*(ii) a Modular Employable Skill Course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Employment and Training, Union Ministry of Labour and Employment; or*

*(iii) **a course run by an institute affiliated to the National Skill Development Corporation set up by the Government of India;**"*

(Emphasis supplied)

11.2. With effect from 10.05.2013 (vide the Finance Act, 2013), the above definition under Section 65B was amended, as follows: -

*"(11) "approved vocational education course" means,-*

*(i) a course run by an industrial training institute or an industrial training centre affiliated to the National Council for Vocational Training or State Council for Vocational Training offering courses in designated trades notified under the Apprentices Act, 1961 (52 of 1961); or*

*(ii) a **Modular Employable Skill Course**, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Employment and Training, Union Ministry of Labour and Employment;"*

(Emphasis supplied)

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11.3. A reading of the above definitions indicates that the vocational educational courses / modular employable skill courses were exempted by way of Section 66D (I), which was in force till 14.05.2016. The appellant has enclosed the relevant certificates issued by the National Skill Development Corporation (NSDC), along with the documents in support of affiliation with respective universities in this regard. The appellant has been issued registration to run the MES course as seen from the letter dated 06.04.2010 issued by the Regional Director, DGET, Ministry of Labour & Employment, Government of India, for conduction of training programme under Skill Development Initiative Scheme based on Modular Employable Skill. For the sake of ready reference, the said letter is reproduced below: -

Speed Post  
Fax No: 033-23210322

Telephone: 2321-0331  
2334-0364

GOVERNMENT OF INDIA  
Ministry of Labour & Employment (D.G.E. & T.)  
Regional Directorate of Apprenticeship Training (Eastern Region)  
M.S.O. Building, 'E' Wing, 1st Floor  
D.F. Block Sector-I, Salt Lake, Kolkata-700064.

No: RD/KOL/I-34035/MES/09/GG

Dated: 06/04/2010

✓ To,  
The Authorised Signatory,  
Orion Learning Center Barasat,  
84 / D KNC Road, Haritala Mode,  
24 Pgs ( North), PIN – 700124.

SUB: Conduction of training programme under Skill Development Initiative  
Scheme based on Modular Employable Skill - Execution of Undertaking  
& Bank Guarantee – Regarding.

Sir,

On receipt of the Undertaking & Bank Guarantee of Rs.2,00,000/- (Two lakh) only vide letter no. OLC/VTP/02 Dated: Nil. I am to communicate the approval of the competent authority to run the MES course as intimated to you vide this Directorate letter no. RD/KOL/I-34024/MES/07/VOL-II/69 dated: 24/03/2010.

Yours faithfully,  
  
Regional Director

Encls: As Stated  
Copy to:  
1. The Director,  
Directorate of Industrial Training,  
Govt. Of West Bengal, Bikash Bhawan,  
10<sup>th</sup> Floor, Salt Lake,  
Kolkata-91

Regional Director



11.4. We observe that the lower authorities have denied the exemption to the appellant as provided under sub-clause (iii) of clause (I) of Section 66D of the Finance Act, 1994. The ground for such denial of exemption by the Revenue is that the address mentioned in the said certificates is not there in the registration certificate of the appellant as per ST-2 and thus, Rule 4(2) of the Service Tax Rules has not been followed. We take note of the appellant's submission in this regard that they have maintained a centralized accounting system in terms of Rule 4(2) of the said Rules and have been paying Service Tax on the basis of the premises located in such centralized accounting. It is seen that the appellant has taken centralized registration at 'Orient Edutech Private Limited' in Kolkata. Thus, we hold that the centralised registration covers all activities undertaken by the appellant and there is no need for a separate registration.

11.5. In this regard, we have also gone through the documents furnished by the appellant viz. copy of ST-2, the Chartered Accountant's certificate in support of maintenance of centralized accounting reproduced above, and the affidavit from its Director, to support that all operations from other parts are integral to the company.

11.6. The appellant have also drawn our attention to Sl. No. 9A of the Mega Exemption Notification No. 25/2012-S.T. with effect from 10.09.2013, which reads as follows: -

"9A. services provided by,

(i) the National Skill Development Corporation set up by the Government of India;

(ii) a Sector Skill Council approved by the National Skill Development Corporation;

**(iii) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;**

**(iv) a training partner approved by the National Skill Development Corporation or the Sector Skill Council,**

*in relation to (a) the National Skill Development Programme implemented by the National Skill Development Corporation; or (b) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or (c) any other Scheme implemented by the National Skill Development Corporation."*

(Emphasis supplied)

11.7. We observe that the appellant has been registered as a training 'partner' approved by the National Skill Development Corporation or the Sector Skill Council and hence, they are eligible for the exemption as provided under Sl. No. 9A of the Mega Exemption Notification No. 25/2012-S.T. w.e.f. 10.09.2013 during the relevant period.

12. Having gone through the documentary evidence placed before us, we are of the view that the appellant is eligible for the exemption in terms of sub-clause (iii) of clause (I) of Section 66D of the Finance Act, 1994 (Negative List) for the period after 01.07.2012, as claimed by them. The appellants are also eligible for the exemption as provided under Sl. No. 9A of the Mega Exemption Notification No. 25/2012-S.T. w.e.f. 10.09.2013 during the relevant period, as claimed. Thus, we hold that the demand of service tax

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confirmed for the period after 01.07.2012, by denying the exemptions provided under the above said notifications is not sustainable and hence we set aside the same.

13. With regard to the denial of CENVAT Credit, it is observed that the appellant has produced year-wise Chartered Accountant's Certificates wherein, after verifying the books of account and other statutory records pertaining to the appellant, the Chartered Accountant has certified that the CENVAT Credit availed by the appellant were used in relation to rendering of the output services by the appellant (Orient Edutech Private Limited, Kolkata). For ready reference, one of the Chartered Accountant's certificate pertaining to the financial year 2013-14 is reproduced below: -

*Sujit De*  
CHARTERED ACCOUNTANTS



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21C, Doctor Lane,  
Kolkata-700 014  
Mob : 99030 31851  
e-mail : de.sujit10@gmail.com

Date: 01.08.2025

**TO WHOMSOEVER IT MAY CONCERN**

This is to certify that we have verified the books of accounts, statutory records, and related documents of **Orion Edutech Pvt. Ltd.** holding Service Tax Registration No.: **AAAC09258KST001** during service tax regime, having their principal office then at 1st Floor, Scheme - VII M, 163/1, VIP Road, Kankurgachi, Kolkata, West Bengal 700054.

Based on the examination of the records and information produced before us, we hereby certify that the **CENVAT credit** amounting to Rs. **22,27,404.00/-** for the FY 2012-13 (Jan to Mar) & Rs. **3,79,591.00/-** for the FY 2013-14, is true and correct to the best of our knowledge and belief, which covers the credits claimed by the entity in accordance with the applicable provisions of the CENVAT Credit Rules, 2004 and the Finance Act, 1994 except an **excess claim of Rs. 19,689/-** in FY 2012-13.

This certificate is issued at the request of the company for the purpose of submission to relevant authorities as required.

For Sujit De  
Chartered Accountants

*Sujit De*



CA Sujit De  
Proprietor  
Membership No.: 053447  
UDIN: 25053447BMJDQL7469

Place: Kolkata  
Date: 01/08/2025

13.1. We find that the Chartered Accountant has enclosed annexures to the above certificates wherein invoice-wise details have been indicated, along with the CENVAT Credit availed by the appellant for various years. A perusal thereof shows that the same clearly details all the invoices based on which the appellant has availed the CENVAT Credit. On perusal of the detailed list of invoices enclosed along with the Chartered Accountant's certificates, we find that the Chartered Accountant has duly verified all the invoices and given certificates for the corresponding years as to the availment of CENVAT Credit by the appellant, in respect of providing output service. Thus, we do not see any infirmity in the availment of CENVAT Credit by the appellant for the periods under dispute. Hence, we hold that the denial of CENVAT Credit by the authorities below is not sustainable.

14. Regarding the demand of Service Tax of Rs.15,69,720/- under reverse charge mechanism on the Directors' Remuneration, we find that the said amounts have been received under the head of 'salary' on which TDS has been deducted, as per the Income Tax Act. In this regard, we have also perused the Income Tax Returns of the Directors concerned. Having gone through the documents placed before us, we are of the view that since the income has been shown as 'salary' and income tax has been paid on the said income by treating it as 'salary', no Service Tax shall be payable on the Directors' Remuneration received. Hence, the demand of Service Tax confirmed on this count is not sustainable and accordingly, the same is set aside.

15. Regarding the demand of Service Tax of Rs.27,00,302/- on the sale of books and periodicals,

we find that the said demand has been confirmed by the lower authorities on the ground that the premises from where such books / periodicals were sold were unregistered. It is seen that the activity involved in this case is 'sale of goods' and there is no provision of service in any manner. Accordingly, we hold that the demand of Service Tax on the sale of books / periodicals is not sustainable. Accordingly, the same is set aside.

16. We have also examined the contentions of the appellant as regards the invocation of the extended period of limitation against them. We find that the Show Cause Notice dated 17.06.2009 for the period 2006-07 to 2007-08, was issued under Section 73(1) of the Finance Act, 1994. As per Section 73(1) *ibid.*, demand can be raised only for the normal period of limitation. In case there is suppression of facts on the part of an assessee, with the intent to evade payment of duties, the proviso to Section 73(1) is liable to be invoked. However, we find that the proviso to Section 73(1) of the Act has not been invoked in the said Show Cause Notice. Hence, we hold that the demand raised in the Notice, by invocation of the extended period of limitation, is not sustainable and hence the demands confirmed by invoking the extended period of limitation in the Show Cause Notice dated 17.06.2009, is liable to be set aside on this ground.

17. Further, we find that the entire demand has been raised on the basis of the difference observed between the S.T.-3 Returns and books of account of the appellant. It is observed that no case of suppression of material facts has been made out by the Department, for confirmation of the demands by invoking the extended period of limitation. For the

above reasons, we also hold that no penalties are imposable on the appellant and hence, all the penalties imposed are set aside.

18. Regarding the Service Tax Appeal No. 75155 of 2017 filed by the appellant herein, we find that this appeal has been filed against the rejection of their VCES-1 application. In this case, the VCES-1 application has been rejected inter alia on the ground that another Show Cause Notice dated 17.06.2009 has been issued against the appellant on the same issue for the period 2006-07 to 2007-08. However, since the demands confirmed in the said Show Cause Notice have been held as unsustainable in the preceding paragraphs, we find that this appeal filed by the appellant has become infructuous. Hence, the same is disposed of, as infructuous.

19. In the result:

- (i) The appeals bearing nos. ST/76554/2016, ST/76558/2016 and ST/75133/2017 are allowed, with consequential relief, if any, as per law.
- (ii) The appeal bearing no. ST/75155/2017 is disposed of, as infructuous.

20. The appeals stand disposed of in the above manner.

(Order pronounced in the open court on **07.08.2025**)

Sd/-

**(ASHOK JINDAL)**  
MEMBER (JUDICIAL)

Sd/-

**(K. ANPAZHAKAN)**  
MEMBER (TECHNICAL)