CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 87850 of 2018

(Arising out of Order-in-Appeal No. IM/ CGST A-I/ MUM/301-303/ 17-18 dated 26.03.2017 passed by the Commissioner of Central Tax (Appeals-I), Mumbai)

Edwise Consultants Pvt. Ltd. **.... Appellant**
Jer Mahal, Ground Floor, Dhobi Talao Junction,
Opp. Metro Cinema, Kalbadevi, Mumbai- 400 002.

Versus

Commissioner of Central Goods and Service Tax, Mumbai South **....Respondent**
13th Floor, Air India Building,
Nariman Point, Mumbai- 400 021.

WITH

Service Tax Appeal No. 87873 of 2018

(Arising out of Order-in-Appeal No. IM/ CGST A-I/ MUM/301-303/ 17-18 dated 26.03.2017 passed by the Commissioner of Central Tax (Appeals-I), Mumbai)

Edwise International LLP **.... Appellant**
Jer Mahal, Ground Floor, Dhobi Talao Junction,
Opp. Metro Cinema, Kalbadevi, Mumbai- 400 002.

Versus

Commissioner of CGST and Central Excise, Mumbai South **....Respondent**
13th Floor, Air India Building,
Nariman Point, Mumbai- 400 021.

AND

Service Tax Appeal No. 87877 of 2018

(Arising out of Order-in-Appeal No. IM/ CGST A-I/ MUM/301-303/ 17-18 dated 26.03.2017 passed by the Commissioner of Central Tax (Appeals-I), Mumbai)

Edwise Internatinal LLP **.... Appellant**
Jer Mahal, Ground Floor, Dhobi Talao Junction,
Opp. Metro Cinema, Kalbadevi, Mumbai- 400 002.

Versus

Commissioner of CGST and Central Excise, Mumbai South **....Respondent**
13th Floor, Air India Building,
Nariman Point, Mumbai- 400 021.

APPEARANCE:

Shri Srisabrirajan Advocate for the Appellant
Ms. S. Varalakshmi, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85932-85934/2025

Date of Hearing: 17.06.2025
Date of Decision: 17.06.2025

PER: S.K. MOHANTY

Heard both sides and perused the case records.

2. Brief facts of the case are that the appellants are engaged in providing various taxable services, for which they got themselves registered with the Service Tax Department. During the disputed period, the appellants had provided 'Commercial Training and Support Services' to the Universities located outside the country. Though, the appellants had claimed that the provision of services to the overseas entity should be considered as export, but had paid the service tax 'under protest' and accordingly intimated the same to the jurisdictional Service Tax authorities. Subsequent to exportation of the services, the appellants had filed a refund application under Section 11B of the Central Excise Act, 1944 made applicable to Service Tax matters under Section 83 of the Finance Act, 1994, claiming refund of service tax paid under protest. The refund applications filed by the appellants were rejected by the Department on the ground that the appellants, as the intermediary, had provided the services to the foreign universities and those services cannot be termed as export of service for non-payment of service tax thereon. The impugned order 26.03.2017 passed by the learned Commissioner of Central Tax (Appeals-I), Mumbai, was assailed by the appellants by way of filing these appeals before the Tribunal.

2. We find that the issue arising out of the present dispute is no more *res integra,* in view of the various judgments relied upon by the learned Advocate for the appellants. In a recent order dated 05.06.2025 on identical set of facts, the co-ordinate Bench of the Tribunal, while allowing the appeal in favour of the appellants therein, has recorded the following observations in the said order: -

> *"4. Learned counsel for the appellant has also referred to the modus operandi, which is adopted by the appellant, where on the enrolment of the students in the universities, the appellant raises invoices on the*

universities for its fee in lieu of the promotional and marketing activities undertaken by it. Such fee is received from the foreign universities in convertible foreign exchange and as a result, the services provided by the appellant being placed in India and the service recipient, the foreign universities being situated outside the taxable territory, the services provided by the appellant are nontaxable. It is also the submission that the income received from the foreign universities and the transaction has been reflected in the ST-3 returns as „exports". Show cause notice dated 22.08.2017 was proposed demand of duty of Rs.14,86,00,571/- for the period July, 2012 to June, 2017, on the allegation that the appellant has been carrying out the activities of arranging/facilitating the enrolment of the students in the foreign universities and for which, they have received commission. Thus, according to the Revenue, the appellant is operating as an "intermediary" in terms of Rule 2(f) of Place of Provisions of Service Rules, 2012. On adjudication, the learned Commissioner granting the benefit of cum-tax duty calculated the service tax amount as Rs.13,05,42,207/- alongwith interest and penalty by invoking the extended period of limitation. Hence, the present appeal has been filed.

5. As discussed above, the issue has already been decided in favour of the appellant in large number of decisions, taking a consistent view, that the appellant cannot be categorized as an „intermediary" and the services rendered by him for promotion and marketing of foreign universities was on principal to principal basis. The services rendered by the appellant in India are received by the foreign universities outside India, for which commission is received in foreign currency is "export of service" and consequently, no service tax is leviable thereon. The present appeal is, squarely covered by the decisions referred to and in that view, the impugned order deserves to be set aside and the appeal is, accordingly, allowed."

3. In view of the fact that the issue arising out of the present dispute is no more open for any debate, in view of the order dated 05.06.2025 passed by the Tribunal, we are of the considered opinion that different interpretation cannot be placed for deciding the present appeal differently. Therefore, we do not find any merits in the impugned order insofar as it has upheld rejection of the refund applications filed by the appellants. Therefore, the impugned order is set aside and the appeals are allowed in favour of the appellants, with consequential benefit, as per statute.

(Dictated and pronounced in open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha