CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

Date of Hearing:31/07/2018

Date of Decision:30/01/2019

ST/54840/2014 (DB)

[Arising out of Order-in-Original No.87/ST/SRB/2014 dated 20.06.2014 passed by the Commissioner of Service Tax, New Delhi]

M/s.All India Management Association (AIMA) ….Appellant
Rep. by Shri Rajesh Kumar, Advocate for the appellant

VERSUS

CST, Delhi …Respondent
Rep. by Shri R.K. Majhi, DR for the respondent

CORAM : HON'BLE MR. ANIL CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. C.L. MAHAR, MEMBER (TECHNICAL)

Final Order No.50124/2019

PER ANIL CHOUDHARY:

The issue involved is, i) whether the educational pogrammes conducted by the appellant are taxable under the category of "Commercial Training and Coaching Services" or not. ii) The other issue involved is whether the amount received for publishing advertisement from other educational institutes in the Business School Directory is liable to service tax. iii) Whether stall fees collected for educational exhibition organized by appellant is liable to tax under Business Auxiliary Service. iv) Whether the rating of Business School done by the appellant is chargeable under the Business Support Service and v) whether the remuneration paid for conducting lectures /seminars to faulty from abroad is chargeable to tax under reverse charge mechanism as Management Consultant Service. The show cause notice dated 18.4.2013 was issued invoking extended period of limitation. The show cause notice was adjudicated on contest and the proposed demand confirmed as follows:-

S. No.	Period	Amount demanded under	Total Rs. (ST + Edu. Cess + SHE Cess).
1.	2007-08 to 2011-12	Management Development Programme fees [Commercial Coaching & Training Service- 65 (105) (zzc)]	2,00,86,883/-
2.	2009-10 to 2011-12	Business School directory [Sale of space or time for advertisement- 65(105)(zzzm)]	5,18,272/-
3.	2007-08 to 2011-12	Stall fees (Educational Exhibition) [Business Exhibition Service- 65 (105)(zzo)]	10,95,423/-
4.	2007-08 to 2008-09	Rating of Business School [Business Support Service - 65(105)(104c)]	3,37,840/-
5.	2007-08 to 2010-11	Foreign Currency Expenses [Management Consultant Service- 65(105)(r)], under reverse charge method under Section 66A]	5,44,640/-
		TOTAL OF S. TAX	2,25,83,058/-
	Penalty U/S 77		10,000/-
	Penalty U/S of 78		2,25,83,058/-
	TOTAL		4,51,76,116/-

2. So far as the issue of taxation on Short Term Refreshes Courses/management development programmes is concerned, the ld. Counsel states that as the appellant is an Educational Institute, providing education leading to different degrees recognized by law, they do not fall within the definition of "Commercial Coaching and Training Centre" till the period 1.5.2011. The Commercial Coaching and Training Service as defined under Section 65(105)(zzc) can be provided only by a Commercial Coaching and Training Centre. He further refers to Circular No.59/8/2003-ST dated 20.06.2003 F.No. B3/7/2003-TRU, wherein in para 2.2.3. it has been clarified as regards whether Service Tax is chargeable on institutes providing Commercial Coaching & Training, in addition to recognized degree courses as follows:-

> *" Some institutes like collages, apart from imparting education for obtaining recognized degrees /diploma / certificates, also impart training for competitive examinations, various entrance tests etc. It is clarified that by definition , such institutes or establishments which issues a certificate diploma or degree recognized by law, are outside the purview of "commercial training or coaching institute". Thus, even if such institutes or establishments provide training for competitive examinations etc., such services rendered would be outside the scope of service tax."*

3. Ld. Counsel further relies on the ruling of the Coordinate Bench in their own case **Indian School of Business - 2010 (17) STR 83 (Trbl.-Bang.),** wherein it has been held that the institutes imparting knowledge and conduct courses at higher level like post-graduate level, cannot be termed as Commercial Training and Coaching Institutes and such courses are not to be equated to Coaching or Training by tutorial colleges.

4. The ld. AR for the Revenue relying upon the findings of the ld. Commissioner states that as the refresher programmes for the post-graduate or continuous development programmes are not recognized by AICTE or UGC, the same are correctly held to be taxable.

5. Having considered the rival contentions, we hold that, such post-graduate short term courses are in the nature of professional development programmes and /or continuous education programmes for development of manpower/skill, is not taxable under the category of "Commercial Training or Coaching Service" as defined under Section 65 (27) of the Finance Act. We further hold that the appellant is not a "Commercial Coaching or Training Centre".

6. So far the service tax demanded on advertisement in the bulletin of the management institutes, published periodically by the appellant, we find that the

same is not taxable, being advertisement made in print media, as per the exception given under Section 65(105)(zzm).

7. So far as the receipt of stall fees is concerned, we find that as the exhibition held by the appellant is for educational purposes, the same does not qualify as business exhibition under Section 65(105)(zzo) read with Section 65(105)(19(a), wherein it is provided that business exhibition so as to promote/to market/to advertise/to show any product or service intended for the growth in business of the producer or provider of such product or service. Such facts are not obtaining in the facts of the present case. Accordingly, we hold that service tax levied under these categories is not tenable.

8. So far as the issue of payment received by the appellant for rating of business schools is concerned, we find that the said issue is already decided in favour of the appellant, as the same issue was raised in the earlier show cause notice (referred to in para 3 above). Accordingly, we set aside the demand on this score also.

9. So far the charge of service tax of Rs.5,45,640/-, related to the lectures /advice given by the foreign experts/professors at workshops on various management programmes, are in the nature of delivery of lectures and speaking at

the workshops are for intellectual development of the professors, the same is thus not a taxable service under the category of "Management of any business" as defined under Section 65(105) of the Finance Act, 1994 read with Section 65(105)(r) .

10. Accordingly, we allow the appeal and set aside the impugned order. The appellant shall be entitled to consequential benefit in accordance with law. As we have decided the appeal on merits, we have not recorded any finding on the issue of limitation raised by the appellant.

(Pronounced on 30.01.2019.)

(ANIL CHOUDHARY)
MEMBER (JUDICIAL)

(C.L. MAHAR)
MEMBER (TECHNICAL)

Ckp.