

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE  
TRIBUNAL  
BANGALORE**

REGIONAL BENCH - COURT NO. 1

**Service Tax Appeal No. 1538 of 2011**

(Arising out of Order-in-Original No. 40/2011 dated 04.03.2011  
passed by the Commissioner of Service Tax, Bangalore.)

**M/s. Indian Institute of  
Management Bangalore**

Bannerghatta Main Road,  
Bangalore - 560 076.

Appellant(s)

*VERSUS*

**The Commissioner of Service  
Tax,**

No. 16/1, 5<sup>th</sup> Floor, S.P. Complex,  
Lalbagh Road, Bangalore - 560 027.

Respondent(s)

**With**

**Service Tax Appeal No. 28001 of 2013**

(Arising out of Order-in-Appeal No. 281/2013 dated 24.07.2013  
passed by the Commissioner of Central Excise (Appeals-II),  
Bangalore).

**M/s. Indian Institute of  
Management Bangalore**

Bannerghatta Road,  
Bangalore - 560 076.

Appellant(s)

*VERSUS*

**The Commissioner of Service  
Tax,**

No. 16/1, 5<sup>th</sup> Floor, S.P. Complex,  
Lalbagh Road, Bangalore - 560 027.

Respondent(s)

**APPEARANCE:**

Mr. N. Anand, Advocate for the Appellant

Mr. Vikalp Jain, Superintendent (AR) for the Respondent

**CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)  
HON'BLE MRS R. BHAGYA DEVI, MEMBER  
(TECHNICAL)**

**Final Order No. 20565 - 20566 /2026**

DATE OF HEARING: 25.02.2026

DATE OF DECISION: 27.04.2026

**PER : DR. D.M. MISRA**

These two appeals are filed against respective Orders-in-Original passed by the Commissioner of Service Tax, Bangalore.

2. Briefly stated the facts of the case are that the appellant is an autonomous organisation under the Government of India, imparting higher education in the field of management studies and registered with the Service Tax Department under the taxable category of "Management Consultant Services". Investigation was initiated on the basis of intelligence that though the appellant were providing taxable services under the category of "manpower recruitment or supply agency services, but failed to discharge service tax on the same, relevant records were collected and statements of Financial Advisor and Chief Accounts Officer and other persons of the Management institute were recorded. On completion of the investigation, show-cause notice was issued to the appellant on 10.03.2010 demanding service tax of Rs.92,37,339/- for the period from 01.05.2006 to 30.09.2009 along with interest and penalty. Another show-cause notice was issued to them on 30.03.2011 demanding service tax of Rs.10,18,183/- for the period from 01.10.2009 to 30.09.2010 with interest and penalty. On adjudication, the demands were confirmed with interest and penalty. Aggrieved by the order confirming the demand for the period 01.10.2009 to 30.09.2010, they filed appeal before the learned Commissioner (Appeals), who in turn, rejected their appeal. Hence, the present appeals.

3.1. Learned advocate for the appellant has submitted that the appellant is an educational institution of higher learning and a seat of academic excellence in the field of management. They

are registered as a society under the Mysore Societies Registration Act, 1960 w.e.f. 27.03.1972. The appellant also was established under the auspices of the Ministry of Human Resources Development (MHRD), Government of India and is central funded by MHRD. The appellant is administered by the Governing Body comprising members appointed by the Central Government and the State Government and supervised by MHRD. On 31.12.2017, the Parliament enacted the Indian Institutes of Management Act, 2017 declaring the appellant as an institution of national importance and also provided statutory provisions about various matters connected therewith or incidental thereto.

3.2. The learned advocate has further submitted that the appellant imparts higher education in the area of management and confers degrees / diplomas in management which is duly recognised by law. The present dispute pertains to activity of allowing corporates / companies to participate in the campus placement activity undertaken by the Students Placement Committee, which is constituted during the academic year through elections and its members are elected by the students themselves. The Committee is guided by one faculty member and 5 staff members of the career development services. Since the appellant society permits / allows corporate companies to visit campus of the appellant and to use various infrastructural facilities during placement activities undertaken by the Student Placement Committee, the appellant collects / charges viz. participation fee from these corporates which has no nexus or connection with the actual recruitment / placement of the students. In addition, the appellant also charges and collects recruitment fee from corporates / companies in case a student is recruited by the said corporate body through campus selection. Thus, the appellant collects both participation fees and recruitment fees separately. It is their contention that they were

under *bona fide* belief that the activity of recruitment through Students Placement Committee by the companies and collection of participation fees and recruitment fees was not liable to service tax since the said activity was only incidental and ancillary to the principal function of educational services which is not taxable, therefore incidental activities also cannot be liable for service tax. Further, it is their contention that they were not a manpower recruitment agency since not engaged in the said activity and do not fall under the scope of taxable service as defined under Section 65(105) of the Finance Act, 1994. He has further submitted that for the earlier period commencing from 01.01.2000 to 2006, they were issued three periodical show-cause notices and these show-cause notices were ended with decision in their favour; hence, no demand for the earlier period was pending. The present appeals is the result of second time DGCEI investigation.

3.3. Assailing the impugned order, learned advocate for the appellant has submitted that the appellant are providing educational services which are duly recognised and approved by the GOI; hence, the services were excluded from the purview of the definition of 'commercial training or coaching centre' as definition under Section 65(27) of the Finance Act, 1994 during the entire period of dispute. It is their argument that when the principal activity i.e. educational service itself is excluded, then the incidental or ancillary service cannot be levied to service tax. Further, he has submitted that the Students Placement activity / facilities exclusively given to its own students and not offered to any person or third parties and being ancillary or incidental to the main services of providing educational services; hence not taxable. In support, they referred to the CBEC's Circular No.131/13/2010-ST dated 07.12.2010. Referring to the definition of 'Manpower Recruitment Agency' since 09.07.1997 to 30.06.2012, he has submitted that manpower recruitment

agency means any commercial concern or any person engaged in providing any service in any manner for recruitment to a client (or to any other person). It is their contention that the activity in question must be one which is engaged in the activity of manpower recruitment service. In the present case, the appellant being educational institution, its principal / primary activity is imparting education which is recognised by law. The activity of campus interview is undertaken by a placement committee as an ancillary to the main/principal activity and without any consideration. Interpreting the scope of 'engaged in', he has submitted that the expression should be read as "primarily or mainly engaged in" and the dominant activity should also decide the question. In support, he has referred to the decision in the case of Regional Provident Fund Commissioner Vs. Shree Krishna Metal Mfg. Co. [1962 SCC OnLine SC 63] and in National Projects Construction Corporation Ltd. Vs. CWT [(1969) 74 ITR 465 (Del.)].

3.4. Further assuming that the appellant is liable to pay service tax, it is his contention that they have collected participation fees and recruitment fees, only recruitment fee alone could be liable for service tax. As far as participation fees is concerned, the same was charged towards space and facilities inside the campus which was used by the visiting corporates / companies and the same is charged whether or not a company is successful in recruiting their students. Further, they have submitted that they are entitled for the benefit of cum-tax value and in support, they referred to the judgment in the case of ACCE Vs. Bata India Ltd. [1996(84) ELT 164 (SC)]; GOI Vs. MRF Ltd. [1995(77) ELT 433 (SC)]; CCE Vs. Maruit Udyog Ltd. [2002(141) ELT 3 (SC)].

3.5. Further on the issue of extended period of limitation invoked in confirming of demand, he has submitted that there has been no suppression of facts inasmuch as the Department

has issued show-cause notices for the previous periods invoking extended period on the same issue and also the matter was adjudicated on the very same facts. Besides, the appellant has also entertained a *bona fide* belief because of the Board's Circular and other judicial decisions that service tax is not required to be paid on participation fees and recruitment fees; accordingly, not paid. In support, he has referred to the following decisions:-

- i. Continental Foundation Joint Venture Vs. CCE [2007(216) ELT 177 (SC)]
- ii. Jaiprakash Industries Ltd. Vs. CCE [2002(146) ELT 481 (SC)]
- iii. Nizam Sugar Factory Vs. CCE [2006(197) ELT 465 (SC)]
- iv. ECE Industries Ltd. Vs. CCE [2004(164) ELT 236 (SC)]

On the same reasoning, he has submitted that penalty also cannot be imposed on the appellant.

4. Learned AR for the Revenue has reiterated the findings of the learned Commissioner. He has submitted that Board vide its circular F.No.354/28/2007-TRU dated 23.08.2007 made it very clear that educational institutions like IITs, and IIMs fall under the definition of 'manpower recruitment or supply agency' and service tax is liable to be paid on services provided in relation to campus recruitment service under Section 65(105)(k) of the Finance Act, 1994. Therefore, the learned Commissioner has rightly confirmed the service tax.

5. Heard both sides and perused the records.

6. The issues involved for consideration are whether (i) the amounts collected as participation fee and recruitment fee are leviable to service tax under the category of 'Manpower Recruitment and Agency' service and (ii) confirmation of demand invoking extended period of limitation is justified.

7. Undisputed facts of the case are that the appellant, a premiere management institute, besides providing education in management, undertakes through a placement committee of the students passed / passing out of the institute, by various recruitment corporates who visit the institute for recruitment purposes. The appellant collected from the visiting business houses, a participation fee in the process of selection and also later if the students are selected for appointment, they collect recruitment fees post-selection of the students. The Revenue's contention is that service tax is applicable under the category of 'manpower recruitment agency' during the period 01.05.2006 to 30.09.2010 on both the charges collected by the appellant.

8. The relevant definition of 'Manpower Recruitment Agency' evolved from time to time are reproduced as below:-

**Definition in section 65(68) during 09.07.1997 upto 16.06.2005:**

"manpower recruitment agency" means any commercial concern engaged in providing any service, directly or indirectly, in any manner for recruitment of manpower, to a client,

**Definition in section 65(68) during 16.05.2005 upto 01.05.2006:**

"manpower recruitment or supply agency means any commercial concern engaged in providing any service, directly or indirectly, in any manner for recruitment or supply of manpower temporarily or otherwise, to a client.

**Definition in section 65(68) during 01.05.2006 upto 16.05.2008:**

"manpower recruitment or supply agency means any person engaged in providing any service, directly or indirectly, in any manner for recruitment or supply of manpower temporarily or otherwise, to a client

**Definition in section 65(68) during 16.05.2008 onwards till 30.06.2012:**

"manpower recruitment or supply agency means any person engaged in providing any service, directly or indirectly, in any manner for recruitment or supply of manpower temporarily or otherwise, to any other person

9. The definition of 'manpower recruitment or supply agency' from 01.05.2006 means any person engaged in providing any service, directly or indirectly, in any manner for recruitment or supply of manpower temporarily or otherwise, to a client. Explaining the scope of the meaning of manpower recruitment or supply agency service applicable to educational institutions such as IITs, IIMs, the Board in its master Circular No.96/7/2007-ST dated 23.08.2007 issued clarification. The relevant portion of the said Circular reads as follows:-

Circular No.96/7/2007-ST New Delhi, the 23rd August,  
2007 F.No.354/28/2007-TRU  
Government of India  
Ministry of Finance  
Department of Revenue  
Tax Research Unit

Sub: Clarification on technical issues relating to taxation of services under the Finance Act, 1994 – Regarding.

Reference code	Issue	Clarification
(1)	(2)	(3)
010.01/ 23.08.2007	Educational institutes such as IITs, IIMs charge a fee from prospective employers like corporate houses / MNCs, who come to the institutes for recruiting candidates through campus interviews. Whether services provided by such institutions in relation to recruitment of manpower are liable to service tax under 'manpower recruitment	'Manpower recruitment or supply agency' is defined as "any person engaged in providing any service, directly or indirectly, in any manner for recruitment or supply of manpower, temporarily or otherwise, to a client"

	<p>or supply agency' service [section 65(105)(k)]?</p>	<p>[section 65(68)]. Educational institutes such as IITs and IIMs fall within the definition of 'manpower recruitment or supply agency', and service tax is liable on services provided by such institutions in relation to campus recruitment under section 65(105)(k).</p>
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Therefore, in the present case, the appellant charge recruitment fees from the corporate houses, business entities who visit the campus for recruitment of the qualified management graduates only in cases where the recruitment students is finalised and hence, the amount collected would definitely leviable to service tax under the category of 'Manpower Recruitment or Supply Agency' as clarified in the said Circular of the Board dated 23.08.2007. However, we find merit in the argument of the appellant that the participation fees which is charged by the appellant from all the corporate houses for using the infrastructure facilities and involved in the process of selection of candidates, the amount paid as participation fees cannot be subjected to levy of service tax under 'Manpower Recruitment or Supply Agency Services'. Therefore, the amount collected as participation fees is not leviable to service tax under the said category.

9. As far as invocation of extended period of limitation is concerned, we find that on the same issue for earlier period, show-cause notices were issued and thus the Department was well aware of the collection of such recruitment fees from the companies / corporate houses who visit the campus for

recruitment purposes. Also, the appellant's records were periodically audited and the amount collected as recruitment fees were duly reflected in the books of accounts; hence, the allegation of suppression of facts by the appellant, a premiere educational institution, in our opinion, is unsustainable in law. Consequently, the demand is to be limited to the normal period of limitation. Since the issue relates to interpretation of law and the definition and scope of Manpower Recruitment Agency evolved over a period of time bringing out changes in its scope and meaning, imposition of penalty also cannot be sustained. The appellant are entitled to avail the cum-tax benefit in computing demand as held in a series of cases involving similar circumstances.

10. In the result, the impugned order is modified and the demand to the extent of collection of recruitment fees with interest for normal period is only confirmed. Demand on participation fees is set aside. Benefit of cum-tax benefit is available to the appellant in computing the demand. Penalty is set aside. Appeal is disposed of accordingly.

(Order pronounced in Open Court on 27.04.2026)

**(D.M. MISRA)**  
**MEMBER (JUDICIAL)**

**(R. BHAGYA DEVI)**  
**MEMBER (TECHNICAL)**

Raja....