

**CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI
WEST ZONAL BENCH**

SERVICE TAX APPEAL NO. 86651 OF 2017

[Arising out of Order-in-Appeal No.PK/ST-I/MUM/204/16-17 dated 27.03.2017 passed by the Commissioner of Service Tax (Appeals)-I, Mumbai]

**JAMNALAL BAJAJ INSTITUTE OF
MANAGEMENT STUDIES**

D.N.House, 164, Backbay Reclamation, H.T.Parekh
Marg, Road No.3,Mumbai-400 020

Appellant

Vs.

**COMMISSIONER OF CGST, MUMBAI
SOUTH**

5th Floor, 115, New Central Excise Building, Maharishi
Karve Road, Churchgate,
Mumbai-400 020

Respondent

Appearance:

Present for the Appellant: Shri M.Dwivedi, Advocate

Present for the Respondent: Shri S.B.P.Sinha (AR)

CORAM:

HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)

HON'BLE MR.A.K. JYOTISHI, MEMBER (TECHNICAL)

FINAL ORDER NO.85632/2026

Date of Hearing: **17.03.2026**

Date of Decision: **06.05.2026**

PER:AJAY SHARMA

The present appeal is filed against the Order-in-Appeal dated 27.03.2017 passed by the Commissioner (Appeals), whereby the Order-in-Original dated 08.12.2011 was set aside and the appeal preferred by the Revenue was allowed. By the impugned order, it has been held that the appellant is liable to discharge service tax on the fees collected from students towards placement activities, classifying the same

under "*Manpower Recruitment or Supply Agency Service*" as defined under Section 65(105)(k) of the Finance Act, 1994.

2. The dispute pertains to the period 2006-07 to 2007-08. A show cause notice dated 28.08.2009 was issued to the Appellant proposing demand of service tax amounting to Rs.5,33,539/- under the category of *Manpower Recruitment or Supply Agency Service*, along with applicable interest and penalties.

3. The Adjudicating Authority dropped the demand, inter alia, relying upon the decision of the Tribunal in *Motilal Nehru Institute of Technology vs. CCE, Allahabad* [2011 (22) STR 565 (Tri.-Del.)]. However, the Commissioner (Appeals), while passing the impugned order, disregarded the said reliance on the ground that it was only an interim order and not a final one. The learned Commissioner (Appeals) further relied upon Circular No.96/7/2007-ST dated 23.08.2007 to hold that IITs and IIMs etc. fall within the definition of 'manpower recruitment supply' services and therefore liable to service tax in relation to campus recruitment u/s. 65(105)(k) of Finance Act, 1994 and 'placement fees' is taxable under the service category of manpower recruitment supply service.

4. Learned counsel for the appellant submits that the issue is no longer *res integra* and stands conclusively settled by the final decision of the Tribunal in *Motilal Nehru National Institute of Technology vs. CCE & ST, Allahabad* [2015 (40) STR 375 (Tri.-Del.)], wherein it has been categorically held that placement related activities undertaken by educational institutions does not fall within the ambit of *Manpower Recruitment or Supply Agency*

Service, particularly where the consideration is received from students and not from recruiting entities.

5. The core issue for consideration is Whether the activity of facilitating campus placement by an educational institution, for which charges are collected from students, falls within the scope of "*Manpower Recruitment or Supply Agency Service*" under Section 65(105)(k) of the Finance Act, 1994 read with Circular No. 96/7/2007-ST dated 23.08.2007?

6. The statutory definition of "*taxable service*" under Section 65(105)(k) contemplates a service provided *to a client*, namely an employer or prospective employer, in relation to recruitment or supply of manpower. The charging provision, therefore, inherently requires *a service provider-client relationship* where the consideration flowing from such client (i.e. the employer). In the present case, it is undisputed that the appellant collects placement-related fees from students and no consideration is received from recruiting companies. The appellant merely facilitates interaction between students and prospective employers without undertaking recruitment on behalf of such employers.

7. Identical issue came up for consideration before the Tribunal in *Motilal Nehru National Institute of Technology* (supra), wherein, after detailed examination of the statutory provisions and Board Circular No. 96/7/2007-ST dated 23.8.2007, it was held that such activities do not satisfy the essential ingredients of the taxable service. The Tribunal specifically observed that where the consideration flows from

students and not from employers, the activity cannot be classified as manpower recruitment or supply service. The Tribunal also clarified that the Circular dated 23.08.2007 (supra) contemplates situations where educational institutions charge placement fees from recruiting companies, and not where fees are collected from students. Relevant paragraphs of the said decision are extracted hereunder: -

“xxx

xxx

xxx

5. The period in issue in the present appeal is 1-5-2006 to 31-3-2007. During this period, manpower recruitment or supply agency service was defined in Section 65(68) as any commercial concern/any person engaged in providing any service, directly or indirectly, in any manner for recruitment or supply or manpower, temporarily or otherwise, to a client.

Section 65 (105) (k) states that this service is a service provided or to be provided to any person, by a manpower recruitment or any service towards recruitment or supply or manpower, temporarily or otherwise, in any manner.

6. From the definition and the enumeration of this activity as a taxable service, it is clear that what is taxable is the rendition of any service towards recruitment or supply or manpower, temporarily or otherwise, to a client. The recipient of this service is a client who receives services in the nature of recruitment of supply of manpower, temporarily or otherwise. The recipient client must thus be an employer or prospective employer and the consideration for this service must flow from such employer to the provider of the service. The placement facilitation provided by educational institutions whereunder the placement charges are collected from students and not from an employer or a prospective employer, do not on a fair and reasonable interpretation of the taxable service as defined in the Act, fall outside the purview of either the definitional or enumerative provisions of the Act.

7. The concurrent conclusions to the contrary recorded by the primary or lower appellate authorities are fundamentally misconceived, invite invalidation and are accordingly quashed. The appeal is allowed No Costs.”

8. The aforesaid decision has further been followed by this Tribunal in *Sydenham Institute of Management vs. CCE, Mumbai-I;2016 (44) S.T.R.69 (Tri.-Mumbai)* wherein it has been

reiterated that such placement activities are not exigible to service tax under 'Manpower Recruitment and Supply Agency Services'.

9. Applying the above binding principles to the facts of the present case the students cannot be regarded as "clients" within the meaning of the taxable entry and no consideration flows from the employers. There is also no service rendered to an employer in relation to recruitment or supply of manpower. Consequently, the essential ingredients of the taxable entry are absent, and the activity cannot be brought within the ambit of the said service. It is settled legal position that the taxing statutes must be interpreted strictly and nothing can be added or implied beyond the clear language of the provision. Also that in case of any ambiguity, the benefit must necessarily go to the assessee and not to the Revenue. Unless the activity of the appellant squarely falls within the four corners of the provision, no tax can be levied by stretching the language of the provision or by relying upon executive circulars. Therefore the reliance placed by the Revenue on Circular dated 23.08.2007 (supra) is misplaced, as executive instructions cannot override or expand the scope of the charging provision.

10. In view of the facts of this case it can be safely concluded that the activity undertaken by the appellant does not fall within the ambit of *Manpower Recruitment or Supply Agency Service*.

11. Accordingly, the impugned Order is set aside and the appeal filed by the appellant is allowed with consequential relief, if any, in accordance with law.

(Pronounced in the open court on 06.05.2026)

(AJAY SHARMA)
MEMBER (JUDICIAL)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

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