CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH - COURT No. I

Service Tax Appeal No.41519 of 2016

(Arising out of Order-in-Original No.3/2016 (STA) dated 29.02.2016 passed by Commissioner of Central Excise, No.26/1, Mahatma Gandhi Road, Nungambakkam, Chennai 600 034)

M/s.India Nippon Electricals Ltd. **.... Appellant**
Hosur-Thalli Road
Uliveeranapalli, Denkanikotta Taluk
Krishnagiri 635 114

VERSUS

The Commissioner of GST & Central Excise **... Respondent**
Salem Commissionerate
No.1, Foulkes Compound Anaimedu
Salem 636 001

APPEARANCE :

Ms. N. Ieswaraya, Advocate for the Appellant
Ms. G. Krupa, Authorized Representative for the Respondent

CORAM :

HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)
HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER No. 40894/2026

DATE OF HEARING : 10.04.2026
DATE OF DECISION :21.07.2026

Per: Shri Ajayan T.V.

M/s. India Nippon Electricals Ltd., the appellant herein, has challenged the Order in Original No.3/2016 (ST) dated 29.02.2016 (the impugned order), to the extent the Adjudicating Authority has confirmed the service tax demand as payable on the services of commercial trading and coaching, which had been alleged to be rendered by the appellant. The demand has been confirmed for the period from April 2012 to December 2014 under *proviso* Section 73 (1) of the Finance Act, 1994 (the Act), along with applicable interest and imposing an equivalent penalty under Section 78 (1) of the Act.

2. The relevant facts are that the appellant is a manufacturer of Motor Vehicle Parts and is also registered under the service tax provisions. On verification of the accounts / trial balance of the appellant, it was found that the appellant had received an amount of Rs.30,46,592/- from the Board of Apprenticeship Training (BOAT) for providing apprenticeship training to graduates /diploma holders. The department, being of the view that the act of providing Apprenticeship Training to graduates / diploma holders comes under the definition of service of commercial training and coaching before 01.07.2012, and that after 01.07.2012 it is within the ambit of the definition of service under Section 65 B (44), was of the opinion that the appellant was liable to service tax on the consideration received from the Government to provide apprenticeship. Hence the Department issued a Show Cause Notice dated 25.09.2015 proposing to demand service tax on the said amount received from the Board of Apprenticeship Training (BOAT) along with interest as well as proposing to impose penalties. After due process of law, the Adjudicating Authority passed the impugned order, aggrieved by which, the appellant is in appeal before this Tribunal.

3. Ms. N. Ieswarya, Ld. advocate appearing on behalf of the appellant, contended that the appellant is required by the Apprentices Act, to engage apprentices and provide technical training. The appellant pays a stipend to the apprentices. BOAT subsequently, reimburses 50% of the stipend to the appellant. The appellant is an industrial manufacturer and is not a 'Commercial Coaching Centre'. The Ld. counsel argued that BOAT is merely reimbursing a cost, i.e. the stipend and thus it would not constitute 'consideration' for the purpose of Section 67 of the Finance Act, since there is no service rendered by the appellant to

the BOAT. It is contended that the amount received from BOAT is a pure reimbursement of the stipend paid to the apprentices under a statutory mandate. Ld. Counsel would submit that such reimbursable expenses cannot be included in the taxable value under Section 67 of the Act, prior to the amendment on 14.05.2015. Ld. counsel further argued that the period of dispute in the present appeal is from April 2012 to December 2014, and prior to the said amendment. It is therefore submitted that the demand confirmed is unsustainable in law. Reliance was placed on the decision in ***Union of India Vs. M/s. Intercontinental Consultants and Technocrats Pvt. Ltd. 2018 (3) TMI 357 – SC***. The appellant also pleaded that since the matter is one that involves a dispute regarding applicability of the service tax provisions and is interpretative in nature, the extended period cannot be invoked. It is submitted that the appeal may be allowed.

4. Ms. G. Krupa, Ld. A.R., appearing for the Respondent, reiterated the findings of the Adjudicating Authority in the impugned order.

5. Heard both sides and perused the material on record.

6. We find that the Adjudicating Authority has noted that though the assessee had provided the apprenticeship training as a legal obligation under the statue, there is no provision in law to exempt them from the levy of service tax and that the service tax levy would be applicable on such amounts.

7. We are unable to concur with the said reasoning of the Adjudicating Authority for reasons infra. We find that indisputably the Show Cause Notice as well as the impugned order seeks to demand service tax on the amount which is stated to be 50% of the stipend paid to the apprentices by the appellant on providing technical training as required under the apprentices Act. The SCN

merely states that it appears that the consideration received from the Government to provide apprenticeship training is liable to service tax while failing to identify any consideration for the alleged service rendered, as the appellant's contention that it is only 50% of the stipend that the appellant has paid which is being reimbursed to the appellant by BOAT, given the mandate under the Apprentices Act for industries to engage apprentices and to impart training as a part of their employment, remains uncontroverted. Indisputably, the said activity is seen to have been held by the Adjudicating Authority as that provided consequent to a legal obligation under the Statute.

8. We are of the considered view that essential for a service to be taxed under the Finance Act 1994 is the requirement for a service provider and service recipient relationship founded on a commercial consideration. To our mind, the stipend being paid by the appellant upfront, fifty percent of which when reimbursed by the Government, would be akin to a statutory grant as a welfare mandate under the Apprentices Act. This then does not acquire the character of a service charge and is not a payment or commercial consideration for any service that is being rendered by the appellant and thus the activity does not cross the threshold to enter the taxable net.

9. Even otherwise when part of the stipend is being reimbursed without any mark up, the appellant can at best be seen as a conduit for transmitting that payment from BOAT to the apprentice, acting as a pure agent. Arguendo, even if it is considered as a cost or expenditure incurred by the appellant while rendering any service allegedly, still it is only a reimbursement. Under Section 67, the value of taxable service shall only be the gross amount charged by the service provider 'for such service' and the valuation of tax service cannot be anything more or less than the consideration paid as *quid pro quo*

for rendering such a service. In such circumstances, we find the reliance placed by the appellant on the decision in Union of India Vs. M/s Intercontinental Consultants and Technocrats case as cited by the appellant to be appropriate. The law of the land, as laid down by the Apex Court in its decision in ***Union of India v Intercontinental Consultants and Technocrats Pvt Ltd, 2018 (10) GSTL 401 (SC),*** puts it beyond the pale of any controversy that Section 67 which deals with valuation of taxable services for charging service tax does not provide for inclusion of the expenditure or cost incurred while providing the services, as they cannot be treated as element/components of service, till the amendment to Section 67 made effective from May 14, 2015. The period of dispute in the present appeal is from April 2012 to December 2014, and prior to the said amendment. We are therefore, of the considered view that the impugned order is unsustainable and liable to be set aside. Ordered accordingly.

10. The appeal is allowed with consequent relief (s), in law if any.

(Order pronounced in the open court on 21.07.2026)

(AJAYAN T.V.) Member (Judicial)	**(VASA SESHAGIRI RAO)** Member (Technical)

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