CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH

REGIONAL BENCH - COURT NO. I

Service Tax Appeal No. 60172 of 2024

[Arising out of Order-in-Appeal No. LUD-EXCUS-001-APP-212-213-2023 dated 21.03.2023 passed by the Commissioner (Appeals), CGST, Ludhiana]

Commissioner of Central Excise & Service Tax, Jalandhar ......**Appellant**
CGST Commissionerate, Jalandhar, CR Building,
Model Town, Jalandhar, Punjab - 144001

VERSUS

M/s Trivedi Overseas Education Services ......**Respondent**
Ladowali Road, Opp. GNDU College,
Jalandhar, Punjab - 144001

APPEARANCE:

Shri S.K. Meena, Authorized Representative for the Appellant

Ms. Sonia, Chartered Accountant for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO.60541/2026

DATE OF HEARING/ DECISION: 18.08.2026

P. ANJANI KUMAR:

Revenue assails the order dated 21.03.2023, passed by Commissioner (Appeals), CGST, Ludhiana.

2. M/s Trivedi Overseas Education Services are engaged in facilitating the admission of Indian students into various foreign universities/ colleges / institutions and were receiving commission for

the same from the foreign universities/ colleges and other educational institutions situated in India. On conduct of an inquiry, it appeared to the Revenue that the respondent acted as an intermediary between the students and foreign universities/ colleges/ institutions as defined under Rule 2(f) of the Place of Provisions of Services Rules (POPS Rules) 2012; accordingly, a show cause notice, dated 23.04.2018, covering the period 01.07.2012 to 31.03.2017 and a statement of case, dated 01.02.2020, covering the period April 2017 to June 2017, were issued to the appellants; the proposals in the SCN were confirmed with equal penalty vide OIO dated 15.12.2020 passed by Joint Commissioner, Central GST, Jalandhar. On an appeal preferred by the respondents, Commissioner (Appeals), vide Order dated 21.03.2023, allowed the appeal and set aside the OIO impugned therein. Hence, this appeal by Revenue.

3. Shri S.K. Meena, learned Authorized Representative for the Revenue reiterates the grounds of appeal, the gist of which is as follows:

- Learned Commissioner (Appeals) failed to appreciate the agreements between the foreign universities/ colleges / institutions and the respondent identify the respondent as an “Agent”; he failed to note that the respondents acting as a bridge has no student could have got admission without their services and that an agent becomes the intermediary in terms of Rule 2(f) of POPS Rules.
- Learned Commissioner did not take note of the facts that the respondent cannot alter the nature of service; respondent was paid a fixed commission as a percentage of the fee paid by the

students and the services provided by the respondent are clearly identifiable.

- Learned Commissioner (Appeals) erred in not considering the location of the service provider to be in India and thus, taking the services out of the ambit of Rule 3.
- Learned Commissioner wrongly relied upon Sunrise Immigration Consultants Pvt. Ltd. and has not analyzed the facts/ parameters cited above. In relying so, he last notes of the point that the decision of Hon'ble Delhi High Court in the case of Indian Association of Tour Operators, relied upon by the Tribunal in the case of Sunrise Immigration Consultants Pvt. Ltd, has been challenged before the Hon'ble Supreme Court – 2018 (17) GSTL J1 16 (SC); the decision of CESTAT was accepted by the Department only on monetary terms; therefore, learned Commissioner ignored the fact that the decision of CESTAT had no precedenciary value.

4. Ms. Sonia, learned consultant for the respondents, submits that the findings and the grounds of appeal by the Department are self-contradictory and not based on legal foundation. It is on fact that the fee is paid directly by the students and no part of it flows through the respondent; no invoices issued by the respondent to the students; respondent raises invoice on the foreign universities. These facts indicate that the respondent was not an intermediary. She submits that the respondent supplied the services on their own account; there is no ancillary service supporting the main service; the respondents cannot be said to have provided services

to the students as well as the universities; the respondents rendered the services only to the foreign universities.

5. Learned consultant submits that the respondent's case satisfies the test, laid down by Board's Circular No.159/15/2021-GST dated 20.09.2021, that to be called an intermediary, there must be three parties and two services; the case of the respondent does not involve three parties and two services; there was only one service rendered by the respondents to the overseas universities. She further submits that Revenue has gone contrary to the education guide; consumption theory has no place in POPS Rules, 2012 and that only because the respondent is called an agent in the agreements, they cannot be held to be an intermediary. She submits that the agreements should be read as a whole.

6. Learned consultant further submits that the issue is no longer res integra as the decision of this Bench on identical facts in the case of Oceanic Consultants Pvt. Ltd. has been upheld by the Hon'ble Apex Court– 2025 (30) Centax 434 (SC); the decision of Hon'ble High Court of Bombay in the case of K.C. Overseas Education Pvt. Ltd. has also been dismissed by the Hon'ble Apex Court. This Bench in the case of Sunrise Immigration Consultants Pvt. Ltd. vide Final Order No. A/62221/2018-CU (DB) dated 16.03.2018 has decided the issue in the favour of the appellants therein. Revenue has accepted this order. Revenue cannot take the plea that the same was accepted on monetary grounds; the plea that the case of Sunrise Immigration (Supra) has no precedential value, is incorrect. She submits that this plea,

however, unfounded is not relevant as the issue has been settled by the Hon'ble Apex Court in other cases.

7. Heard both sides and perused the records of the case. We find that the respondent has acted as an agent for the foreign universities and has received a commission for the same. As there is no tripartite agreement and as there is no involvement of more than one service, the respondents cannot be treated as intermediary just because they are labelled as an agent and are receiving commission. We find that the issue is no longer res integra having been decided in many cases. This Bench held, in the case of Oceanic Consultants Ltd. (supra), as follows:

> 12. As far as the period post 01.07.2012 is concerned, the learned Counsel for the appellants submits that learned Commissioner erred in holding that the appellant is acting as an intermediary to connect its foreign principal to the end users of service who were the consumers in India. We find that during the relevant period, Intermediary Service has been defined by Rule 2(f) of Place of Provision of Service Rules, 2012 (introduced by the Notification No.28/2012-ST dated 20.06.2012) as under:
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> > 2(f) "Intermediary" means a broker, an agent or any other person, by whatever name called, who arranges or facilitates a provision of service (hereinafter called the main service) or supply of goods, between two or more persons but does not include a person who provides the main service or supplies the goods on his account.
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> 13. In the facts of the case, we find that in any of the transactions, three parties are not involved; be it between the Australian universities and M/s OCA or be it M/s OCA and the Indian students. M/s OCA is rendering services to the Australian universities and the universities pay remuneration to M/s OCA; M/s OCA has appointed the appellant to help the Indian students who intend to study in Australian

universities. In the scheme of arrangements, it is not brought on record if there is any agreement or arrangement between the foreign universities and the appellant or M/s OCA and Indian students. Therefore, it appears that the primary requirement of existence of three parties in the scheme of things is absent in the instant case. The main service is rendered by M/s OCA to the foreign universities and the appellant helps M/s OCA as far as the Indian students are concerned; neither the appellant nor M/s OCA charged any amount from the Indian students. Therefore, in the circumstances, as submitted by the learned Counsel for the appellants, the appellants can at best be held to be the sub-contractor or the sub-agent of M/s OCA and not an intermediary between the India students and the universities or the Indian students and M/s OCA.

14. We find that Circular No.159/15/2021-GST dated 20.09.2021 issued by CBIC envisages that in respect of Intermediary Services, there should be a minimum of three parties and two distinct supplies i.e. main supply and ancillary supply; it also clarifies that a person involved in supply of main supply on principal-to-principal basis to another person cannot be considered as supplier of Intermediary Service. In the instant case, the appellants and M/s OCA are rendering the same service i.e. helping the students get admission in Australian universities and the appellants are rendering the same main service as M/s OCA; whereas M/s OCA get the remuneration from the universities on the fees paid by the students, the appellants get their remuneration. A doubt can arise as to whether the clarification issued by CBIC in the contacts of GST Act can be applicable to service tax. It is pertinent to note that the same circular clarifies categorically that there is no difference between the Service Tax regime and the GST regime as far as the treatment of “Intermediary Service” is concerned. We find that Hon’ble High Court of Punjab & Haryana, in the case of Genpact India Pvt. Ltd. (supra), has enunciated the conditions that are required to be satisfied, primarily for a person to qualify as an “intermediary”.

- the relationship between the parties must be that of a principal-agency relationship.
- the person must be involved in arrangement or facilitation of provisions of the service provided to the principal by a 3rd party.
- the person must not actually perform the main service intended to be received by the service recipient itself. Scope of an "intermediary" is to mediate between two parties i.e. the principal service provider (the 3rd party) and the beneficiary who receives the main service and expressly excludes any person who provides such main service "on his own account".

15. We find that Principal Bench of CESTAT has gone into a case involving similar facts and held in the case of M/s IDP Education India Pvt. Ltd. (supra) as follows:

> 8. We have gone through the records of the case and considered the submissions on both sides. It is undisputed that the appellant has an agreement only with IDP Australia. The appellant recruits or facilitates students in India, but does not get any remuneration from Australian universities. For the students who are recruited or admitted by the university in Foreign Country, recommended by appellant in India, IDP Australia gets paid by the Australian/Foreign universities. A share of that commission is given to the appellant by IDP Australia. This scheme of arrangement clearly shows that the IDP Australia is providing services to the foreign universities and is receiving consideration for the same. Insofar as recruitment of students in India is concerned, IDP Australia has created the appellant as a fully owned subsidiary, and has sub-contracted the work to the appellant. Nothing has been brought on record in the show cause notice or in the order to show that the appellant has a direct contract with the foreign universities. There is nothing on record to show that the appellant is liasioning or acting as intermediary between the foreign universities and IDP Australia. All

> that is evident from the records is that the appellant is providing the services which have been sub-contracted to it by M/s IDP Australia. As a sub-contractor, it is receiving commission from the main contractor for its services. The main contractor - IDP Australia, in turn, is receiving commission from the foreign universities who pay a percentage of the tuition fee to IDP Australia. From the records, we find that Revenue has not established that the appellant is acting as an intermediary between M/s IDP Australia and the foreign universities, as alleged or held in the impugned order and the show cause notice. Hence, we find in favour of the appellant on merits.
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> 16. As the facts of the instant case are identical to the above cited case, we find that the case law submitted by the Revenue is of no avail. In view of the above, we are of the considered opinion that the services rendered by the appellants to M/s OCA during the period 01.07.2012 to 31.03.2015 do not fall under the category of "Intermediary Services" and thus, the appellants are eligible for the benefit of export of services.

8. In view of the above, we find that there is no merit in the appeal of the Department. We failed to understand as to how Revenue holds that the case of Sunrise Immigration (supra) has no precedenciary value when they themselves have decided not to file an appeal. In that case, Revenue was free to appeal before the appropriate forum. Appealing against the decision of the Commissioner, relying on the case of Sunrise Immigration (supra), after not filing an appeal, tantamount to review of the order passed by this Bench. This is not acceptable as it is in violation of judicial discipline.

9. Another issue involved in the case is the leviability of service tax on the commission earned by the respondents from domestic institutions, learned counsel for the respondents submits that the commission earned was Rs.3,25,748/- during 2012-13 and Rs.2,23,829/- during 2013-14. Respondent's claim that the commission earned is within the threshold limit for exemption in terms of Notification No.33/2012- ST dated 20.06.2012. We find that under the Notification, taxable services of aggregate value not exceeding Rs.10 Lakhs in a year are exempt and the value of services exported cannot be taken into reckoning while computing the limit of exemption. Under the circumstances, we find that the respondent is not chargeable to any service tax on the commission received by them from domestic institutions. Therefore, we find no merit in the appeal filed by the Department in this regard. We also find that the respondents submit that Auxiliary Educational Services are exempt under Notification No.25/2012 dated 20.06.2012.

10. Accordingly, the appeal is dismissed.

(Operative part of the order pronounced in the open court)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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