

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH – COURT No. III

Service Tax Appeal No. 42493 of 2015

(Arising out of Order-in-Appeal No. 196/2015 (STA-I) dated 21.09.2015 passed by Commissioner of Service Tax (Appeals-I), Newry Towers, No. 2054-I, 12th Main Road, Anna Nagar, Chennai – 600 040)

With

Service Tax Appeal No. 41038 of 2016

(Arising out of Order-in-Appeal No. 130/2016 (STA-I) dated 22.02.2016 passed by Commissioner of Service Tax (Appeals-I), Newry Towers, No. 2054-I, 12th Main Road, Anna Nagar, Chennai – 600 040)

And

Service Tax Appeal No. 41104 of 2016

(Arising out of Order-in-Appeal No. 172/2016 (STA-I) dated 22.03.2016 passed by Commissioner of Service Tax (Appeals-I), Newry Towers, No. 2054-I, 12th Main Road, Anna Nagar, Chennai – 600 040)

**M/s. International School for Management Studies
Societies for Social Education and Research**

No. 32, Casa Major Road,
Egmore,
Chennai – 600 008.

...Appellant

Versus

Commissioner of GST and Central Excise

Chennai Outer Commissionerate,
Newry Towers, No. 2054-I,
12th Main Road,
Anna Nagar,
Chennai – 600 040.

...Respondent

APPEARANCE:

For the Appellant : Mr. M.N. Bharathi, Advocate

For the Respondent : Ms. Anandalakshmi Ganeshram, Authorised Representative

CORAM:

HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)

HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER Nos. 40009-40011 / 2026

DATE OF HEARING : 21.07.2025

DATE OF DECISION : 08.01.2026

Per Mr. VASA SESHAGIRI RAO

The Appellant, M/s. International School for Management Studies (ISMS), is an administrative unit of Society for Social Education & Research (SSER), registered under the Societies Registration Act, 1860. The Appellant conducts a one-year Post Graduate programme in Management (ISMS course) at Chennai.

1.2 Under a twinning arrangement with Missouri State University, Springfield, USA, students who successfully complete the first-year programme conducted by ISMS in India may, subject to fulfillment of eligibility conditions such as GMAT and visa requirements, join the second year MBA programme at Missouri State University. There is no financial obligation or revenue sharing between ISMS and the foreign university.

1.3 The Department was of the view that the first-year foundation course conducted by ISMS did not lead to an educational qualification recognized by law in India and hence fell under "Commercial Training or Coaching Service" as defined under Sections 65(26), 65(27) read with Section 65(105)(zxc) of the Finance Act, 1994.

1.4 Accordingly, Show Cause Notices were issued for various periods, proposing demand of service tax along with interest and penalties under Sections 76 and 77 of the Act.

1.5 The demands were confirmed by the Adjudicating Authority and upheld by the Commissioner (Appeals). Being aggrieved, the Appellant is before this Tribunal.

1.6 For the earlier period from April 2006 to March 2007, two Show Cause Notices were issued to the Appellant, culminating in Order-in-Original Nos. 61/2007 and 208/2007, confirming service tax demands under the category of Commercial Training or Coaching Service along with interest and penalties.

1.7 The Appellant's appeals against the said Orders-in-Original were rejected by the Commissioner (Appeals) *vide* Order-in-Appeal Nos. 67/2009 (MST) and 68/2009 (MST).

1.8 Aggrieved thereby, the Appellant approached this Tribunal. The CESTAT, Chennai, *vide* Final Order Nos. 839 & 840/2010 dated 02.08.2010, set aside the appellate

orders and remanded the matter to the Adjudicating Authority with a specific direction to examine:

the effect and implication of the retrospective amendment to Section 65(105)(zzc) introduced by the Finance Act, 2010; and the Appellant's contention that it was not a commercial concern, since any surplus was required to be ploughed back into educational activities.

1.9 Pursuant to the said remand, the Adjudicating Authority passed the Order-in-Original No.72/2011 dated 31.10.2011, once again classifying the Appellant's activity under Commercial Training or Coaching Service and confirming the demand along with interest and penalties.

1.10 The Appellant challenged the said Order-in-Original before the Commissioner (Appeals), who vide Order-in-Appeal No.130/2016 (STA-I) dated 22.02.2016, rejected the appeal and upheld the Order-in-Original.

1.11 The present appeal insofar as Order-in-Appeal No.130/2016 (STA-I) is concerned, therefore, arises out of remand proceedings pursuant to CESTAT Final Order Nos. 839 & 840/2010 and pertains exclusively to the earlier period from April 2006 to March 2007.

2.1 As being aggrieved by the above three Orders-in-Appeal, the Appellant has filed the present appeals before this Tribunal as Tabulated below: -

Appeal No. (CESTAT)	Order-in-Appeal No. & Date	Period Involved	Service Tax	Interest & Penalty
ST/42493/15	OIA No.196/2015 (STA-I) dt.21.09.2015	01.04.2010 31.03.2011	2,78,100	Sec. 76 & 77
ST/41038/16	OIA No.172/2016 (STA-I) dt.22.03.2016	01.04.2011. 31.3.2012	1,25,413	Sec. 76 & 77
ST/41104/16	OIA No.130/2016 (STA-I) dt.22.02.2016	Earlier period (remand matter)Apr 2006 to March 2007	1,60,687	Sec. 76 & 77

2.2 Since all the three appeals involve identical issues relating to taxability of foundation management courses conducted under a twinning arrangement, they were heard together and are being disposed of by this common order.

3. The Ld. Advocate Mr. M.N. Bharathi, appeared on behalf of the Appellant and advanced detailed submissions in support of the Appeal and the Ld. Authorized Departmental Representative Ms. Anandalakshmi

Ganeshram, appeared for the Revenue and defended the Impugned Orders.

4. The Ld. Advocate Mr. M.N. Bharathi made the following submissions which are summarized as below: -

4.1 The Appellant is not a commercial coaching centre, but an educational institution run by a charitable society without profit motive; surplus, if any, is ploughed back into educational activities.

4.2 The expression "commercial" in Sections 65(26) and 65(27) qualifies the centre, not the activity.

4.3 ISMS is empowered to conduct Post Graduate Diploma courses under its Memorandum of Association since 1960; autonomy has been reaffirmed by UGC and University of Madras.

4.4 The ISMS certificate is issued under statutory authority of the Society and is legally valid.

4.5 The retrospective Explanation inserted in Section 65(105)(zxc) by Finance Act, 2010 applies only if the service first falls within Sections 65(26) and 65(27), which is not the case here.

4.6 Reliance is placed on decisions such as: -

- i. *Indian School of Business v. CST – 2010 (17) STR 83 (Tri.)*
- ii. *Great Lakes Institute of Management – 2008 (10) STR 202 (Tri.)*
- iii. *Administrative Staff College of India – 2009 (14) STR 341 (Tri.), affirmed by SC*
- iv. *Institute of Banking Personnel Selection – 2007 (8) STR 579*

4.7 On penalties, it was submitted that: The issue involves interpretation of law, there was *bona fide* belief supported by judicial precedents and hence penalties are liable to be set aside under Section 80 of the Act.

5. The Ld. AR reiterates the findings of the lower authorities and submits that: -

5.1 The course conducted by the Appellant does not itself confer a degree recognized by law in India.

5.2 The Appellant collects fees for imparting training and therefore squarely falls within the definition of Commercial Training or Coaching Centre.

5.3 The retrospective Explanation to Section 65(105)(zcc) clarifies that profit motive, charitable status, or registration as a society is irrelevant.

5.4 Reliance was placed on: -

- i. *I2IT Pvt. Ltd. v. CCE – 2014 (34) STR 214 (Tri-Mum.)*

- ii. *Academy of Maritime Education & Training Trust – 2014 (36) STR 1216 (Mad.)*
- iii. *CBEC Circular F. No. 334/1/2010-TRU dated 26.02.2010*

5.5 It is contended that once tax liability is upheld, interest and penalties automatically follow.

6. We have carefully heard the submissions advanced by both the sides, examined the appeal records in detail, considered the statutory provisions, Notifications and Circulars and the case Laws cited by both the sides.

7. Upon such comprehensive consideration, the following issues arise for our determination in this appeal as to: -

- i. Whether the Appellant is liable to service tax under the category of "Commercial Training or Coaching Service"?
- ii. Whether the retrospective Explanation to Section 65(105) (zxc) brings the Appellant within the tax net?
- iii. Whether the Appellant is entitled to exclusion as an institution issuing educational qualifications recognized by law?
- iv. Whether the penalties imposed under Sections 76 and 77 are sustainable?

Issue No. 1 Whether the Appellant qualifies as a Commercial Training or Coaching Centre: -

8.1 We find that Sections 65(26) and 65(27) define Commercial Training or Coaching and Commercial Training or Coaching Centre. The exclusion applies only to institutes which issue certificates, diplomas or degrees recognized by law.

8.2 It is an admitted position that the ISMS certificate by itself does not confer an MBA degree. The degree is awarded only by Missouri State University upon completion of the second year abroad.

8.3 The Appellant's reliance on charitable status and lack of profit motive is rendered untenable in view of the retrospective Explanation inserted by Finance Act, 2010, which expressly provides that any centre imparting training for consideration is taxable, irrespective of profit motive or charitable character.

8.4 The decision in *I2IT Pvt. Ltd [2014 (34) STR (TRI-MUM)]* relied upon by the Respondent squarely covers the issue, holding that the services offered by I2IT were classified as "commercial coaching or training service" because the courses were not recognized by law during the period in question, making them liable for service tax.

Therefore, The Appellant falls within the scope of Commercial Training or Coaching Service.

Issue No. 2 Applicability of Retrospective Amendment: -

9.1 The Explanation to Section 65(105)(zzc) of the Finance Act, 1994, inserted retrospectively from July 1, 2003, clarifies that the levy of service tax on "commercial training or coaching services" is based on the existence of a "consideration" (payment), regardless of whether the service provider has a profit motive.

9.2 The contention that the Explanation cannot apply unless Sections 65(26) and 65(27) are first satisfied is misconceived. The Explanation clarifies the scope of the expressions used in those very clauses.

9.3 We find that the "Explanation" is intended to clarify the main clauses of a statute (Sections 65(26) and 65(27)), rather than acting as a separate condition that needs to be met first.

Therefore, the retrospective Explanation validly applies to the Appellant.

Issue No. 3 Recognition by Law: -

10.1 We observe that the Recognition by UGC or autonomy granted by university does not ipso facto mean that every course conducted is a qualification recognized by law.

10.2 We note that the ISMS course is at best a facilitating programme enabling students to seek admission abroad; it does not culminate in a degree recognized under Indian law.

10.3 Decisions relied upon by the Appellant such as *Indian School of Business v. CST, Hyderabad 2010 (17) STR 83 (Tri.-Bang.)* are distinguishable on facts, as those institutions conducted stand-alone advanced management programmes of international repute, whereas in the present case, the course is a foundation programme leading to a foreign degree.

We therefore hold that the exclusion under Section 65(27) is not available.

Applicability of precedent Case Laws: -

11.1 We find that the decisions relied upon by the Revenue correctly lay down the legal position applicable to the facts of the present case. In *I2IT Pvt. Ltd. v. CCE [2014*

(34) STR 214 (Tri.)], the Tribunal has categorically held that after the insertion of the retrospective Explanation to Section 65(105)(zzc) by the Finance Act, 2010, any institute imparting training or coaching for consideration, irrespective of profit motive or charitable character, would fall within the ambit of Commercial Training or Coaching Service unless it issues a qualification recognized by law.

The Hon'ble Madras High Court in *Academy of Maritime Education & Training Trust [2014 (36) STR 1216 (Mad.)]* has affirmed that where training is imparted for consideration and fees are collected, classification under the said taxable category is proper.

The Respondent placed reliance on *Atul Ltd. v. CCE [2009 (246) ELT 744 (Tri.)]* for the proposition that interest is a statutory consequence once tax liability is upheld is appropriate.

11.2 The decisions relied upon by the Appellant stand on a different factual and legal footing and do not advance its case.

NON-APPLICABILITY OF ISB / GREAT LAKES LINE OF DECISIONS POST FINANCE ACT, 2010: -

12.1 We find that the line of decisions commencing from *Indian School of Business [2010 (17) STR 83 (Tri.)]*,

Great Lakes Institute of Management [2008 (10) STR 202 (Tri.)] and *Administrative Staff College of India [2009 (14) STR 341 (Tri.)]* were rendered prior to, or without considering the full effect of, the retrospective Explanation inserted to Section 65(105)(zxc) by the Finance Act, 2010. The said Explanation was specifically introduced to neutralize interpretational disputes and to clarify that the expression “commercial” is not dependent upon profit motive, charitable status or nomenclature of the institution, but solely on the fact of training or coaching being imparted for consideration.

12.2 Post the said retrospective amendment, the determinative test is no longer whether the institution is run on a non-profit basis or enjoys academic standing, but whether the course conducted culminates in a certificate, diploma or degree recognized by law in force in India. In the present case, the foundation programme conducted by the Appellant does not, by itself, lead to any such recognized qualification and is only a preparatory stage for a foreign degree. Consequently, the earlier decisions relied upon by the Appellant, which were rendered in a different statutory context, cannot be applied to the facts of the present case, as consistently held in later decisions such as *I2IT Pvt. Ltd.*

13. In view of our findings on the issues framed at Sl. Nos. 1, 2 and 3, and having regard to the binding judicial precedents discussed hereinabove, we hold that the services rendered by the Appellant are classifiable under "Commercial Training or Coaching Service" and are liable to service tax on merits.

Next, we move on to the final question of whether Penalties imposed in this case are sustainable: -

14.1 We find that the issue involved in the present appeals has been the subject matter of prolonged litigation, with divergent judicial views prevailing during the relevant period on the taxability of educational institutions imparting management education, particularly those functioning under twinning or collaborative arrangements with foreign universities. The records clearly show that the Appellant had disclosed all material facts relating to the nature of the course, fee structure and the arrangement with the foreign university, and the dispute essentially arises from interpretation of statutory provisions, including Sections 65(26), 65(27) and the retrospective Explanation inserted under Section 65(105)(zxc) of the Finance Act, 1994. It is well settled that when the issue is interpretational and has given rise to conflicting views, penal consequences are not

automatic, as held in *Hindustan Steel Ltd. v. State of Orissa* [1978 (2) ELT (J159) (SC)].

14.2 We further find that in such circumstances; the invocation of penal provisions is not justified. Section 80 of the Finance Act, 1994 provides for waiver of penalty where the assessee establishes reasonable cause for the failure. In the present case, the Appellant's conduct demonstrates a bona fide belief regarding non-taxability, supported by judicial precedents and the charitable character of the institution. There is no allegation or evidence of suppression, misstatement or intent to evade tax. It has consistently been held that where non-payment arises due to a bona fide interpretational dispute, penalties are liable to be set aside, as held in *Punjab Ex-Servicemen Corporation v. CCE* [2009 (13) STR 529 (Tri.)] and *CCE v. Ruchi Soya Industries Ltd.* [2009 (15) STR 216 (Tri.)]. Accordingly, we invoke provisions of Section 80 of Finance Act 1994 and set aside the penalties imposed under Sections 76 and 77 of the Finance Act.

15. In view of our findings on the issues framed and discussed hereinabove, we hold that the services rendered by the Appellant are classifiable under "Commercial Training or Coaching Service" and are liable to service tax on merits. Accordingly, the demands of service tax confirmed in the

impugned Orders-in-Appeal are upheld, along with interest payable under Section 75 of the Finance Act, 1994.

16. However, having regard to the interpretational nature of the dispute, the prolonged litigation involved and the absence of any suppression or intent to evade payment of tax, we invoke the provisions of Section 80 of the Finance Act, 1994 and set aside the penalties imposed under Sections 76 and 77 of the said Act.

17. Accordingly, the appeals are thus partly allowed, to the extent of setting aside penalties, and are otherwise dismissed.

(Order pronounced in open court on 08.01.2026)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

Sd/-
(P. DINESHA)
MEMBER (JUDICIAL)

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