

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH : KOLKATA**

REGIONAL BENCH – COURT NO. 1

Service Tax Appeal No. 75950 of 2022

(Arising out of Order-in-Appeal No. 24/SLG-ST/2022-23 dated 07.10.2022 passed by the Commissioner of Appeal, C.G.S.T. & C.X., Siliguri (Appeal) Commissionerate, C.R. Building, Haren Mukherjee Road, Hakimpara, Siliguri – 734 001)

M/s. M.M. Group

: Appellant

MRS Building, 2nd Floor,
DCR Market, Malda Sadar, Malda,
West Bengal – 732 101

VERSUS

Commissioner of C.G.S.T. and Central Excise

: Respondent

Malda Division,
Under O/o. Pr. Chief Commissioner, C.G.S.T. & Central Excise,
180, Shantipally, Rajdanga Main Road, Kolkata – 700 107

AND

Service Tax Appeal No. 75699 of 2023

(Arising out of Order-in-Appeal No. 134/SLG-ST/2023-24 dated 20.07.2023 passed by the Commissioner of Appeal, C.G.S.T. & C.X., Siliguri (Appeal) Commissionerate, C.R. Building, Haren Mukherjee Road, Hakimpara, Siliguri – 734 001)

M/s. M.M. Group

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180, Shantipally, Rajdanga Main Road, Kolkata – 700 107

APPEARANCE:

Smt. Shreya Mundhra, Advocate, for the Appellant

Shri S.K. Jha, Authorized Representative, for the Respondent

CORAM:

HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NOS. 76910-76911 / 2025

DATE OF HEARING: 14.07.2025

DATE OF DECISION: 15.07.2025

ORDER:

Service Tax Appeal No. 75950 of 2022 has been filed against the Order-in-Appeal No. 24/SLG-ST/2022-23 dated 07.10.2022 passed by the Ld. Commissioner of Appeal, C.G.S.T. & C.X., Siliguri (Appeal) Commissionerate, C.R. Building, Haren Mukherjee Road, Hakimpura, Siliguri – 734 001.

1.1. **Service Tax Appeal No. 75699 of 2023** has been filed against the Order-in-Appeal No. 134/SLG-ST/2023-24 dated 20.07.2023 passed by the Ld. Commissioner of Appeal, C.G.S.T. & C.X., Siliguri (Appeal) Commissionerate, C.R. Building, Haren Mukherjee Road, Hakimpura, Siliguri – 734 001.

2. As both these appeals have common issues, they are taken up together for decision by way of a common order.

3. The facts of the case are that M/s. M.M. Group (hereinafter referred to as the “appellant”) are engaged in providing vocational training and skill development services and are registered as a Vocational Training Provider (VTP) in the State of West Bengal, with the Director of Industrial Training, Govt. of West Bengal vide Registration No. 1906004. As per the registration documents dated 23rd December, 2011, the appellant was registered as a Vocational Training Provider (VTP) for implementation of Govt. of India's Skill Development Initiative (SDI) under Directorate General of Employment and Training (DGE&T), Ministry of Labour and Employment (MoL&E), Govt. of India. They provided NCVT-approved Modular Employable Skill (MES) courses. This Scheme (Skill Development Initiative (SDI) Scheme) is now under the Ministry of Skill

Development & Entrepreneurship, Government of India.

4. The appellant was accorded approval to conduct training programmes under the Prime Minister's National Skill Development Mission, a new Ministry of Skill Development and Entrepreneurship (MoSD&E) initiative set up in the year 2014 to coordinate all skill development efforts across the country.

5. During the material periods i.e., 2014-15 and 2015-16 to 2017-18 (up to June, 2017), the appellant imparted vocational training of NCVT-approved Modular Employable Skill (MES) Course under Skill Development Initiative (SDI) Scheme of Govt. of India as per Registration orders issued by Govt. Of West Bengal. The appellant had no control over selection of trainees. Such Training was provided only to trainees selected by the Govt. Undertakings. The appellant did not provide training to any other trainee. The appellant neither had any control over deciding the curriculum of the vocational course/skill development course or MES courses, which were all designed by National Skill Development Agency (NSDA) under Ministry of Skill Development and Entrepreneurship, Govt. of India.

5.1. The appellant did not collect any fees directly from any trainees. The Vocational Course/Skill Development Course or MES courses were funded by the various Govt. Department (Central Govt or State Govt.) and entire course fees were received by the appellant through EdCIL (India) Ltd., ECIL, Aliah University and directly from the Departments of the Govt. of West Bengal. The progress of courses, including attendance of trainees, was closely monitored by the Govt. agencies (PBSSD & other

Directorates) through Govt. Portals. They, on completion of training, assessed acquired skills of the trainees through a third party. Regional Director, Regional Directorate of Apprenticeship Training, Eastern Region, Govt. of India, after successful completion of training and assessment, awarded Certificates to the trainees on behalf of NCVT that bore specific headlines confirming NCVT certification.

5.2. The appellant had undertaken correspondences with the Service Tax Department seeking clarity on the applicability of Service tax on Vocational Courses. Vide letter dated 05.08.2013, the Range Officer clarified that as per Circular No. 164/15/2012-ST, the question of Service Tax does not arise when VEC is offered by Government or Local Authority. The services provided by the Appellant are also exempt from Service tax under Notification 25/2012-ST dated 20.06.2012. As such, under a bonafide impression that their activities were not liable to Service tax as they were exempt under Notification 25/2012-ST dated 20.06.2012 and under Section 66D of the Finance Act, 1994, the appellant had filed Nil Service Tax Returns for the material period.

6. During the relevant period, the appellant was engaged in providing the following vocational education/training/skill development courses:

- a) Advance Diploma in Information Technology (ADIT) Vocational education/training/skill development courses provided through Employment Exchange (Labour Department), Government of West Bengal
- b) Bengali & English Typing with DTP and Certificate course in E-System Management-

Vocational education/training/skill development courses provided through West Bengal Minorities Development & Finance Corporation (WBMDFC), Government of West Bengal

c) Certificate in Rural Management (CRM), Diploma in office automation & Networking(DOAN) and Diploma in Information Technology & Networking (DITN) - Provided through Aliah University, Government of West Bengal

d) Land Surveyor, Diploma in Bengali & English Typing with DTP, Driver Cum Mechanic and NIELIT "O" Level - Provided through Aliah University, Government of West Bengal

7. Based on TDS information received from Income Tax Department through inter-departmental information sharing system for the period 2014-15, it appeared that the appellant had earned/collected taxable income amounting to Rs. 38,027/- & Rs. 5,93,949/- during Financial Year 2014-15 under Section 194C & 194J respectively of Income Tax Act, 1961. Accordingly, a Show Cause Notice dated 24.09.2019 was issued proposing to demand Service Tax of Rs. 12,04,135/- (inclusive of cesses), along with interest and penalty, by invoking the extended period of limitation. The above Notice alleged that the appellant had failed to pay Service Tax on vocational training services and had suppressed facts from the Department.

7.1. During adjudication, the Ld. Assistant Commissioner, Malda Division vide Order-in-Original No. 05/AC/ST/MLDN/2020 dated 12.08.2020 confirmed the demand, along with interest and

penalty, holding that the appellant's activities do not qualify for exemption under Section 66D(1)(iii) of Finance Act, 1994 .

7.2. Being aggrieved, the appellant preferred an appeal before the Ld. Commissioner (Appeals), Siliguri, who vide the impugned order dated 07.10.2022 upheld the Order-in-Original and rejected the appeal, primarily holding that the appellant failed to establish that their services fall under approved vocational education course exemption.

7.3. Aggrieved by the said order dated 07.10.2022, the appellant has filed Service Tax Appeal No. 75950 of 2022.

8. Similar proceedings were also initiated for the period from 2015-16 to 2017-18 (up to June, 2017) against the appellant by way of issuance of the Show Cause Notice dated 30.12.2020, proposing to demand Service Tax of Rs.40,83,450/- (inclusive of cesses), along with interest and penalty. The matter was adjudicated vide the Order-in-Original No. 12/AC/ST/MLDN/2021 dated 31.12.2021 wherein the Id. adjudicating authority dropped the demand of Service Tax of Rs.40,83,450/-, along with interest and penalty, raised against the appellant. The respondent challenged the said order before the Ld. Commissioner (Appeals), Siliguri, who passed the impugned order dated 20.07.2023 setting aside the Order-in-Original dated 31.12.2021.

8.1. Aggrieved by the aforesaid order dated 20.07.2023, the appellant has filed Service Tax Appeal No. 75699 of 2023.

10. The Ld. Counsel appearing on behalf of the appellant has made various submissions, which are summarized below: -

I. The services provided by the Appellant are exempt from Service tax under Notification 25/2012-ST dated 20.06.2012.

(i) The appellant submits that Sl. 9A of the Notification 25/2012-ST dated 20.06.2012 provides exemption to **any services provided by,**

- (i) The National Skill Development Corporation set up by the Government of India;
- (ii) a Sector Skill Council approved by the National Skill Development Corporation;
- (iii) an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;
- (iv) a training partner approved by the National Skill Development Corporation or the Sector Skill Council**

in relation to (a) the National Skill Development Programme implemented by the National Skill Development Corporation; or (b) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or (c) any other Scheme implemented by the National Skill Development Corporation.

(ii) As per Ministry of Skill Development & Entrepreneurship, Government of India, Every

State have their State Skill Development Mission. The state of West Bengal have their Skill Development Mission in the name of Paschim Banga Society for Skill Development (PBSSD) and they have tie up with Sector Skill Council (SSC).

- (iii) In the present case, it is relevant to note that the Appellant is registered with the Paschim Bangla Society for Skill Development (PPSSD) – which is a government-initiated society by the Department of Technical Education, Training & Skill Development, Government of West Bengal. It operates as a state-level autonomous society, formed to implement skill training schemes (e.g., Utkarsh Bangla) within West Bengal. PBSSD ties up with SSCs to ensure nationally recognized standards in its training and certification. PBSSD must use SSC-developed QPs/NOS for NSQF-aligned training. So, SSCs are certification and curriculum partners for PBSSD.
- (iv) Thus, it is submitted that PBSSD acts as SSC's state implementing agency. Approval through PBSSD would constitute SSC's approval through delegated authority. Further, SDI is an NSDC scheme implemented through state agencies. Participation in the scheme implies NSDC approval of the training partner.
- (v) In view of the above position, the appellant submits that they satisfy the conditions required for availing the exemption notification from payment of service tax for the activities undertaken by them. Reliance in this regard is placed on *SRK Innovatives School of Information Pvt. Ltd. v. Pr. Commissioner of*

Central Tax, Visakhapatnam, GST [2025 (5) TMI 262 – CESTAT Hyderabad] wherein the CESTAT Hyderabad allowed the appeal of *SRK Innovatives* by holding that the benefit of exemption under Entry 9A of Notification No. 25/2012-ST is available even if the assessee is not expressly listed as an approved training partner of NSDC. The Tribunal found that the appellant, though not named on NSDC's official partner list, had received soft loans from NSDC specifically for skill development programmes and had executed government-sponsored projects under schemes like NULM. The appellant's role in implementing these schemes, along with documentary proof such as loan agreements and MoUs, demonstrated that their activities were in furtherance of NSDC's objectives. Thus, even in the absence of formal approval or certification, the substance and purpose of the appellant's works are aligned with the spirit of the exemption, making them eligible.

- (vi) The Tribunal also invoked the principle laid down in *Mother Superior Adoration Convent* (SC), distinguishing it from *Dilip Kumar & Co.* by emphasizing that beneficial exemption notifications must be interpreted purposively. Where an entity contributes to the policy goals behind a tax exemption—such as skill development in this case—it should not be denied benefit merely due to technicalities or lack of direct documentation. The ruling affirms that where the intent and implementation of services are in line with exempted purposes, exemptions must be extended even through

indirect linkages, recognizing both funded and non-funded partnerships with NSDC.

- (vii) Relying on the said ruling, the appellant submits that no Service tax is payable by the Appellant who acts as a training partner in line with the notification.

II. The appellant's services fall squarely under "approved vocational education course" exemption under Section 66D(I)(iii) of Finance Act, 1994 and are specifically excluded from the purview of Service Tax.

- (i) The appellant submits that Section 66D of the Finance Act, 1994 provides the negative list of services which are specifically excluded from the levy of Service Tax. Section 66D(I)(iii) specifically excludes "education as a part of an approved vocational education course" from the definition of taxable service.
- (ii) Section 65B(11) of the Finance Act, 1994 defines "approved vocational educational course" as:

*"(i) a course run by an industrial training institute or an industrial training centre affiliated to the National Council for Vocational Training or State Council for Vocational Training offering courses in designated trades notified under the Apprentices Act, 1961; or
(ii) a Modular Employable Skill Course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Employment and Training, Union Ministry of Labour and Employment"*

- (iii) The appellant, M/s. M.M.Group Training Centre, is a registered Vocational Training Provider (VTP) bearing Registration No. 1906004 under the Skill Development Initiative Scheme (SDIS) of the Government of India. The registration has been accorded by the Directorate of Industrial Training, West Bengal, which functions under the administrative control of the Directorate General of Employment & Training (DGE&T), Ministry of Labour & Employment, as evidenced by the approval letter dated 22nd December 2011.
- (iv) As stated in the SDI Operations Manual (Page 12), *"DGE&T at the national level issues the guidelines and provides funding and direction to the scheme whereas the implementation is carried out by the state government and regional institutions."* This establishes the appellant's registration with DGE&T through its authorized state machinery.
- (v) The courses conducted by the appellant are Modular Employable Skill (MES) courses, specifically approved under the SDI Scheme. The approved courses include modules in Electronics (ELC207, ELC208), Information & Communication Technology (ICT101, ICT102), Business & Commerce (BSC101, BSC104), and Garments Making (GAR105, GAR212, GAR213, GAR214), as listed in Annexure-I of the registration approval. These are standardized MES courses developed and approved by the National Council for Vocational Training (NCVT).
- (vi) The SDI Scheme Operations Manual of 2014 explicitly establishes that all MES courses under

this scheme are approved by NCVT, which issues certificates upon successful completion. The manual states that *"NCVT issues certificate of skills acquired through informal means/competence assessed"* and emphasizes that *"the essence of the scheme is in the certification on vocational training from the NCVT that is nationally and internationally recognized."* This conclusively establishes NCVT approval for all courses conducted by the appellant.

- (vii) Further, the nature of these services is further reinforced by the fact that the Government reimburses training costs to VTPs like the appellant. The approval letter confirms that "approved VTP has to submit Bank Guarantee as per prescribed format, if applicable. Reimbursement of Training Fee would be made only after receiving of Fund from DGE&T, Government of India." This demonstrates that the Government itself recognizes these as essential vocational education services deserving public funding support.
- (viii) Thus, it is submitted that the appellant's courses squarely fall within the definition of "approved vocational education course" under clause (ii), which covers *"a Modular Employable Skill Course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Employment and Training."*
- (ix) All three essential conditions are fulfilled:
 - (a) the courses are Modular Employable Skill Courses,

- (b) they are approved by NCVT under the SDI Scheme framework, and
 - (c) the appellant is registered with DGE&T through its state directorate.
- (x) Thus, the appellant submits that the impugned Order is liable to be set aside on this ground also.

III. Extended period of limitation is not invocable.

- (i) The appellant categorically submits that there is no suppression of facts or intention to evade payment of service tax. All transactions were duly recorded in their books of accounts which were open to inspection by the Department at any time.
- (ii) The appellant had been in regular correspondence with the jurisdictional Range Office seeking clarification on the taxability of their activities. The Range Officer vide letter dated 05.08.2013 had specifically clarified that Service Tax is not applicable on the Appellant's activities as per CBEC Circular No. 164/15/2012-ST.
- (iii) Based on the above clarification, the appellant filed NIL Service Tax Returns believing in good faith that their activities were exempt from Service Tax. The mere fact that the Department subsequently took a different view cannot be a ground for invoking extended period of limitation when the Appellant had acted based on specific clarification from the department. Reliance in this regard is placed on:

- *Raychem RPG Ltd. v. Commissioner [(2022) 144 taxmann.com 99 (SC)]*.
- *HPCL v. Commissioner [2005 (190) E.L.T. 140 (Tri. - Bang.)]*

(iv) Thus, the appellant submits that extended period is not invocable in the present case.

10.1. Without prejudice to the above submissions, the Ld. Counsel for the appellant further submits that a Show Cause Notice dated 24.09.2019 was issued demanding Service Tax of Rs. 12,04,135/- (inclusive of cesses), for the period 2014-15, along with interest and penalty, by invoking the extended period of limitation. That is the subject matter of the Appeal bearing No. ST/75950/2022. Subsequently, another Show Cause Notice was issued for the period 2015-16 to 2017-18 (up to June, 2017) on the same issue, by invoking extended period of limitation, which is not permissible as held by the Hon'ble Apex Court in the cases of *Nizam Sugar Factory v. Commissioner [2006 (4) TMI 127 - SC]* and *Emta Coal Ltd. v. Commissioner [2024 (8) TMI 475 - CESTAT Kolkata]*. Thus, the appellant submits that both the impugned order are liable to be set aside on the ground of limitation also.

10.2. In view of these submissions, the Ld. Counsel for the appellant prayed for setting aside the impugned orders and allowing their appeals.

11. On the other hand, the Ld. Authorized Representative of the Revenue reiterated the findings in the impugned orders. He also inter alia made the following submissions: -

- (i) The appellant was engaged in imparting education/training for skill development and trains the trainees in Computer Course on behalf of M/s Electronic Corporation of India Ltd., Aliah University, National Institute of Electronics & Information Technology (NIELT), CSC E-governance Services India Ltd. and received consideration.
- (ii) During adjudication, the appellant had only submitted a copy of the Certificate issued by the Directorate of Industrial Training, Bikash Bhawan, 10th Floor (North Block), Salt Lake City, Kolkata, regarding registration of VTP in the State of West Bengal under SDI Scheme. The content of the subject letter was that the approval of VTP registration under SDI Scheme was accorded to the institute of the appellant to conduct training programme in the approved courses as mentioned in enclosed List. Moreover, the appellant had not adduced any evidence in support of their claim which fulfils the conditions for availing the benefit of exemption from tax.
- (iii) At Para No. 4 of the grounds of appeal, the contention of the appellant is that during the relevant period they were engaged in providing vocational / skill development training programme approved and certified by National Council of Vocational Training (NCVT), Govt. of India. Such activities were non-taxable in terms of Clause I [(ii) & (iii)] of Section 66D read with Clause 11 of Section 65B of the Finance Act, 1994 and CBEC's clarification at Para 3 of

Circular No. 164/15/2012-ST dated 28.08.2012.

- (iv) The above circular clearly mentions the fact that the VEC is to be offered by an institution as an "independent entity in the form of a society or any other similar body which brings to the fact that the appellant in the instant case should have been formed as a society or any other similar body. However, the appellant had been incorporated as an Organisation for profit thereby rendering itself non-applicable of the benefit of the above Circular dated 28.08.2012. The appellate authority has rightly observed this fact and upheld the impugned Order-in-Original dated 12.08.2020.
- (v) With regard to the grounds urged at Para Nos. 5 to 7 of the Grounds of Appeal, the Ld. A.R. submits that Section 66D of Finance Act, 1994 specifies the Negative list of services i.e. the services on which Service Tax is not leviable. Hence, it is clear that all services are taxable except the services under negative list. What are all the services which are to be treated as negative list entries is also provided by having the Section called 66D under the heading 'Negative list of services', wherein, a number of such services have been provided under negative list. In this context. Clause (1) of Section 66D reads thus.

"(1) Services by way of -

(i) pre-school education and education up to higher secondary school or equivalent:

(ii) education as a part of a curriculum for obtaining a qualification recognised by any law (emphasis supplied) for the time being in force:

(iii) education as a part of an approved vocational (emphasis supplied) education course;"

- (vi) As regard to Sl. No. (ii) of clause (1) of 66D, it may be mentioned here that the same was related to delivery of education as a part of the curriculum that has been prescribed for obtaining a qualification prescribed by law. It is important to understand that to be in the negative list the service should be delivered as part of curriculum. Conduct of degree courses by colleges, universities or institutions which lead grant of qualifications recognized by law is covered under this clause; but, training given by private coaching institutes would not be covered as such raining does not lead to grant of a recognized qualification. Therefore, the said clause is not applicable to the appellant. Hence, the contention of the appellant in this instant case is not sustainable.

11.1. Thus, the Ld. Authorized Representative of the Revenue prayed for upholding the demands confirmed vide the impugned orders.

12. Heard both sides and perused the appeal records.

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13. In this case, I observe that the appellant has inter alia entered into agreements with the following entities: -

1.	Aliah University	Recognized by UGC which is also a partner of National Skill Development Corporation (NSDC).
2.	Modular Employable Skill (MES)	Under Ministry of Labour, Government of India act as a Sector Skill Council (SSC). Course approved by NCVT under administrative control of Ministry of Skill Development and Entrepreneurship, Government of India.
3.	West Bengal Minority Finance & Development Corporation (WBMFDC)	Under Ministry of Minority & Madrasa Education. Government of West Bengal. Providing Skill Development / Vocational Training to Minority Student through SSC affiliation private organization.
4.	Electronics Corporation of India Limited (ECIL)	A Government of India Enterprise under Department of Atomic energy. It also be a training partner of approved by Sector Skill Council through Paschim Banga Society for Skill

		Development (PBSSD), under Government of West Bengal. ECIL get order from Aliah University or various Government corporation for vocational training and providing the vocational training through the PBSSD empanel partner.
5.	EdCIL (India) Limited	A Government of India Enterprise under Ministry of HRD, Govt. of India. It also be a training partner of approved by Sector Skill Council through Paschim Banga Society for Skill Development (PBSSD), under Government of West Bengal. EdCIL get order from Aliah University or various Government department for vocational training and providing the vocational training through the PBSSD empanel partner.

14. It is the case of the appellant that the programme is approved by the Ministry of Skill Development & Entrepreneurship, Government of India, as they are registered with the Paschim Bangla

Society for Skill Development (PPSSD), which acts as the state implementing agency for Sector Skill Council (SSC) . Accordingly, the appellant submitted that the services rendered by them are specifically exempt from service tax by virtue of Sl. No. 9A of Notification No. 25/2012-S.T. dated 20.06.2012. For ease of reference, the relevant portion of the said Notification is reproduced below: -

"any services provided by,

- (i) *The National Skill Development Corporation set up by the Government of India;*
- (ii) *a Sector Skill Council approved by the National Skill Development Corporation;*
- (iii) *an assessment agency approved by the Sector Skill Council or the National Skill Development Corporation;*
- (iv) *a training partner approved by the National Skill Development Corporation or the Sector Skill Council***

in relation to (a) the National Skill Development Programme implemented by the National Skill Development Corporation; or (b) a vocational skill development course under the National Skill Certification and Monetary Reward Scheme; or (c) any other Scheme implemented by the National Skill Development Corporation."

(Emphasis supplied)

14.1. From the above, it is evident that a training partner approved by the National Skill Development Corporation or the Sector Skill Council, undertaking

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course approved them are eligible for the exemption from payment of service tax as provided under of Sl. No. 9A of Notification No. 25/2012-S.T. dated 20.06.2012.

14.2. In support of their contention that the programme undertaken by them is approved by the Government, the appellant has produced the letter dated 30.12.2011 issued by the Director of Industrial Training, West Bengal to the appellant regarding Registration of VTP in the State of West Bengal under SDI Scheme. For the sake of ready reference, the said letter is reproduced below: -

Directorate of Industrial Training
Bikash Bhavan , 10th Floor (North Block) , Saltlake City
Kolkata-700091

No. ST-201/STCMES/2011/ 4373(1)
To
The Principal / Director,
M.M.Group Training Centre
MRS Building, DCR Market 2nd Floor,
Malda-732101

Dated 22nd December, 2011
30/12/11

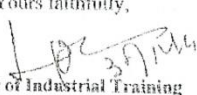
Sub : " Registration of VTP in the State of West Bengal under SDI Scheme"

Sir,

This is to intimate you that the approval of VTP registration under SDI Scheme is accorded for your Institute to conduct training programme in the approved courses as mentioned in the enclosed list (Annexure-I) . You are therefore requested to run the approved training programme immediately and inform this Directorate in prescribed format (meswestbengal@gmail.com).

The approved VTP has to submit Bank Guarantee as per prescribed format, if applicable . Reimbursement of Training Fee would be made only after receiving of Fund from DGE&T, Government of India.

Encls : As stated

Yours faithfully,

Director of Industrial Training
West Bengal

Copy forwarded for information & necessary action to the

1) Regional Directorate of Apprenticeship Training (Eastern Region) , Kolkata , RDAT(ER) , MSGO Building , CGO Complex , "E" Wing , 1st Floor , DF Block , Sector -I , Saltlake City , Kol-700064

Deputy Director of Industrial Training
West Bengal

14.3. From the above, I find that the programme undertaken by the appellant is approved by the Government and hence the activity undertaken by them is eligible for the exemption from payment of Service tax, as the said activity are covered under Sl. No. 9A of Notification No. 25/2012-S.T. dated 20.06.2012.

15. The appellant has also referred to the salient features of the "Operations Manual for Skill Development Initiative Scheme (SDIS) based on Modular Employable Skills" issued by the Ministry of Labour and Employment, Government of India, which are reproduced below: -

"4.1 Vocational Training System in India

Vocational Training is a concurrent subject under the Constitution. The Central and State Governments share responsibility for effective implementation of vocational training system in the country.

As per the National Skill Development Policy, India has target of creating 500 million skilled workers by 2022 and all the ministries have devised skill development plans and set the targets/milestones for skill development and employment.

Directorate General of Employment and Training (DGE&T), Ministry of Labour & Employment (MoLE), is the nodal body for formulating policies, laying down norms, standards, conducting trade test and certification of vocational training under the aegis of training advisory body National Council of Vocational Training (NCVT).

.....

4.5 Skill Development Initiative on Modular Employable Skill (MES) Skill Development Initiative on Modular Employable Skill (MES) has been

developed in close consultancy with Industry, State Governments & Experts in pursuance of excellence in vocational training. MES is 'Minimum Skill Set which is sufficient to get an employment in the world of work. MES allows skills upgradation/formation, multi entry and exist, vertical and horizontal mobility and lifelong learning opportunities in a flexible manner and allows recognition of prior learning. The skill is to be assessed by the Assessing Body mainly from the Industry organizations. NCVT issues certificate of skills acquired through informal means/competence assessed.

.....

5. Introduction to Skill Development Initiative Scheme (SDIS)

Hon'ble Minister of Finance during the budget speech in 2005-06 made the following announcement:

"To meet the demand for specific skills of a high order, a Public Private Partnership between Government and Industry is proposed to promote skills development program under the name 'Skill Development Initiative....."

Accordingly, Ministry of Labour & Employment undertook development of a new strategic framework for skill development for early school leavers and existing workers, especially in the un-organized sector in close consultation with industry. micro enterprises in the un-organized sector, State Governments, experts and academia which were essential considering their educational, social and economic background.

5.1 Progress of Skill Development Initiative Scheme (SDIS)

Ministry of Labour and Employment launched Skill Development Initiative Scheme (SDIS) in May 2007. DGE&T at the national level issues the guidelines and provides funding and direction to the scheme whereas the implementation is carried out by the state government and regional institutions under Ministry of Labour and Employment in partnership with VTP and Assessing Bodies.

The online implementation of the SDI scheme through web-portal was launched since 1st January 2012. During XI plan period (2007-12), against an approved outlay of Rs 500 crore, an amount of Rs 407 crore was spent and 13.67 lakh persons were trained or directly tested under the scheme.

Till date 27.31 lakh of youth have been training / tested under SDIS. At present SDIS is being implemented by 9807 Vocational Training Providers and 104 Assessing Bodies.

Cabinet committee on Skill Development has approved the continuation of this scheme for XII plan period with certain changes. An outlay of Rs 2000 crore has been kept for the scheme for 12th plan period. Total, 25 lakh people would be skilled & certified during 12th plan period.

.....

5.3 Key Features of the Scheme

Key features of the scheme are:

- i. Demand driven short term training courses based on Modular Employable Skills (MES) identified and decided in consultation with Industry. MES is the 'Minimum Skills Set which is sufficient for gainful employment or self employment in the world of work.*
- ii. Central government facilitates, funds and promotes training while industry, private sector and state governments provide training to the persons*
- iii. Optimum utilization of available existing infrastructure to make training cost effective.*
- iv. Flexible delivery mechanism (part time, weekends, full time, and onsite) to suit needs of various target groups.*
- v. Testing of skills of an individual acquired informally in competency and issue of NCVT certification on qualifying it successfully.*
- vi. Testing of skills of trainees by independent assessing bodies which do not involve in training*

delivery, to ensure an impartial assessment by the employer itself.

vii. Essence of the scheme is in the certification on vocational training from the NCVT that is nationally and internationally recognized in world of work in the Government (Center and State) as well as private sector."

16. From the above, I find that the programme of Skill Development Initiative Scheme (SDIS) based on Modular Employable Skills" is approved by the Ministry of Labour and Employment, Government of India. The appellant has undertaken this programme as a training partner approved by the National Skill Development Corporation and thus, I find that the appellant are eligible for the exemption from payment of service tax as provided under of Sl. No. 9A of Notification No. 25/2012-S.T. dated 20.06.2012.

17. I find that a similar issue has already been dealt with by the Tribunal at Hyderabad in the case of *SRK Innovatives School of Information Pvt. Ltd. v. Pr. Commissioner of Central Tax, Visakhapatnam, G.S.T. [2025 (5) TMI 262 – CESTAT, Hyderabad]*. The relevant observations of the Tribunal in the above case are reproduced below: -

"11. Even though, the impugned order is not sustainable on the ground as discussed, supra, we have also examined the claim for eligibility under Notification No. 25/2012-ST dated 20.06.2012 (entry no. 9A).

12. We find that the Adjudicating Authority has gone through a great deal of effort in analysing the scope and the factual matrix before coming to the conclusion that the said exemption would not be admissible to the appellant. Before, we proceed further, the entry at Serial No. 9A of the Notification

No. 25/2012-ST is reproduced below for ease of reference:

9A. Any services provided by;-

(i) the National Skill Development Corporation set up by the Government of India;

(ii) a Sector Skill Council approved by the National Skill Development Corporation;

(iii) an assessment agency approved by the Sector Skill Council or the National Skill development Corporation:

(iv) a training partner approved by the National Skill Development Corporation or the Sector Skill Council; in relation to

(a) the National Skill Development programme implemented by the National Skill Development corporation; or

(b) a vocational skill development course under the National Skill certification and Monetary Reward Scheme; or

(c) any other scheme implemented by the National Skill Development Corporation.

13. We note that the Adjudicating Authority has referred to certain information available on-line on the website of NSDC as also on website of Ministry of Skill Development and Entrepreneurship (MSDE) and interalia, observed that NSDC has 574 Training Partners (TPs) and complete list of sector wise training partners approved by NSDC and SSC is available on the website of All India Counsel for Technical Education (AICTE). He also noted that NSDC issues Partnership Certificates to all its affiliate ie funded and non-funded as Training Partners (TPs) as a proof of affiliation with NSDC and that only TPs with valid Partnership Certificate and/or Agreement shall have the right to use NSDC branding and can claim benefit of NSDC affiliation, He noted that the assessee has not submitted any document or claim that they are NSDC/SSC approved training partner. He has also relied on the fact that the reliance placed on the Tripartite

agreement, which he considered as loan agreement, is only to provide assistance to implement the project "Yuvamitra", which was imparting skill training programme for rural and urban youth and that no where it is mentioned that it was an approved training programme of NMDC. He has also proceeded to examine the list of 21 projects/schemes, as claimed to have been executed by them, in relation to imparting skill training programme under NSDC and though he admitted that apparently these projects/schemes were in relation to skill development programme implemented by different Central Government/State Government and other agencies, no evidence/documents/information was provided to show that these projects were covered under the eligible category of the exemption i.e. projects/schemes in relation to any of the services specified viz. National Skill Development Programme implemented by NSDC, or a vocational skill development course under the National Skill Certification and Monetary Reward Scheme besides any other scheme implemented by NSDC.

14. The Adjudicating Authority also doubted the credential of the appellant for claiming the benefit of the notification on the ground that all the work orders for skill development are in the name of M/s Datapro Computers Pvt Ltd., and not in their name and both being two different legal entities, it cannot be said that appellant has provided computer training under the said project/scheme.

15. We have perused the Tripartite Agreement between NSDC on one hand and M/s Datapro Computers Pvt Ltd., (Datapro) and SRK Innovatives School of Information Pvt Ltd., (SRKISI) as other party, who have been jointly termed as borrowers. This is essentially a loan agreement for providing assistance on certain concessional terms in terms of interest, repayment etc., and for specific purpose. The assistance being provided by NSDC to these co-borrowers is essentially an amount advanced by NSDC to the borrowers as a soft loan and is linked to certain skill development programme and milestones based on number of trainees trained or employed. The scope of project for which this soft loan has been extended, interalia, is as under:

"To uplift unemployed rural and urban youth pertains to BPL category viz. school/college

dropouts, current students imparting skill training programs in retail & banking sectors and place them suitably so as to main their livelihood".

This loan was for providing certain skills in relation to retail sector /banking/insurance and finance sector. Thus, it is clear that assistance /funding is intended for vocational training/skill development program in a specific sector and for specific purpose. The bonafide of the terms of the Tripartite Agreement has not been doubted by the Adjudicating Authority. Therefore, it can be concluded that the funding was intended for enabling the appellant to impart/upgrade certain skills enabling the targeted persons suitable for employment. On the issue that it was Datapro who are the actual recipient of job order concerning various skill development programmes and not the appellant, we find that there is a back to back MoU between Datapro and appellant which clearly provides for the appellant for the execution of skill training programmes component wherever the orders have been obtained by the Datapro from the central, state governments and other agencies from time to time. Therefore, there is a link between the skill training programmes provided and the training programme awarded by various central, state governments and other agencies under various schemes. On going through further documents, we find that some of these work orders have been issued by state governments in terms of various skill training component of programmes in terms of National Urban Livelihood Mission (NULM). which is administered by Ministry of Urban Development and Employment (MoUD). We have also seen that some of the work order is from certain state government corporation under SDT and said programme for SC and ST sponsored by OSFDC. The claim of appellant that they have provided skill training in terms of over 21 projects/schemes can also not be brushed aside as these schemes also have skill development component.

16. We find that it is on record that the appellants have provided certain skill training including computer literacy etc., to upgrade the skill of the students and making them ready for employment. This is not being disputed that they were not running a training organisation and they had never provided any skill upgradation training to student making them adaptable and ready for employment. It is also

not in dispute that though M/s Datapro and the appellant have jointly taken concessional loan/funds and assistance from the NSDL, it is the appellant who has actually provided the service of skill development. As already pointed out that Datapro had a back-to-back MoU with the appellant to provide certain skill upgradation training in terms of various orders placed on them by various state governments under different schemes. For example, in the case of order provided to Datapro by Government of Bihar's Urban Development Housing Department, we find that this work is in the nature of EST and P component of National Urban Livelihood Mission (NULM). NULM is a scheme under the Ministry of central government (MOUD), where the execution is done through state governments. In addition to this, even the soft loan agreement with NSDC, jointly with Datapro and the appellant, also shows that the soft loan agreement is only for providing skill upgradation training which is adaptable to future employability of the candidates. It is not alleged that after taking the loan, the appellant had not carried out the activities as covered in the said loan agreement.

17. M/s NSDC is under the Ministry of Skill Development and Entrepreneurship (MSDE), who collaborates with State Governments and offer organisations to catalyse and accelerate the skill training course in the country. It's objective is to actualise capacity creation for vocational training by providing funding to support to the organisations that provide skill training. NSDC has developed a robust network of training programmes which includes funded, non-funded and innovation partners as well as sector skill council and assessment agency. One of the categories is fee based training partners, which is required to provide not only training but also help in placement of the trained candidates. Therefore, NSDC is primarily a public private partnership organisation dedicated to skill development and it has been envisaged as financing and administrative organisation to support creation of skilable and profitable vocational training institutions. As a part of their core functions they are also engaged in lending business also whereby they help build training capacity through private sector participation. They are also engaged in implementation and facilitation of Central and State Government Schemes including the schemes

of other institutions, Central Government and State Government, including Ministry of Urban Development and Improvement (MUDI).

18. The Adjudicating Authority has denied this exemption on the basic ground that they have not been able to produce any certificate of their being an approved training partner of NSDC and that their name is not appearing in the list of approved partners, therefore, a plain reading of notification would debar them from the benefit of said notification at serial no. 9A. We find that, it is not in dispute that NSDC is providing, inter alia, soft loans at concessional rate of interest only for the purpose of skill development or building training capacity consistent with their objective to partner with Central and State Governments for creating and developing favourable eco system for skill development. In the present appeal, from the loan agreement itself it is apparent that the soft loan has been extended, for specific skill development programmes to be conducted by the appellant. Various other documents submitted, including the one where the order is from the State Government of Bihar, show that they were imparting skill upgradation training as a part of NULM. It is also observed that NSDC is engaged in implementing the skill development component of various schemes run by different ministries. Thus, holistically considering the objective for creation of NSDC and its role, it would be obvious that the loan was provided for skill development programme only and was in relation to schemes being implemented by other Central Government Ministries and State Governments. Further, skill being imparted i.e. computer training etc., is definitely a vocational training also. Therefore, we find that plain reading of the notification would show that the intention is to exempt all the services provided by NSDC or by sector skill council approved by NSDC or by a training partner approved by the NSDC, in relation to, inter alia, any scheme implemented by NSDC. The rationale adopted by the Adjudicating Authority that since they do not have a certificate and that their name is not figuring in the list of partner shown on the website of the NSDC, it would in itself be a sufficient to treat them as not being an approved training partner is not correct when there is a provision for both types of partners, funded and non-funded. In this case, we find that the funding

has been done by the NSDC by way of concessional loan for specified end purpose and therefore they would be in the nature of funded partner. Even if it is presumed that concessional loan is not actually a funding or assistance, it can be covered under the non-funded category. Incidentally, the term 'partner' has not been defined anywhere in the notification. The second question would be whether it is in relation to any scheme being implemented by NSDC, we find that it is an admitted fact that NSDC is not only implementing training programme on its own but is also funding and supporting the skill development component of other programmes run by other central government ministries and state governments as long as it is consistent with their objective for which the said specialised agency has been created. NSDC is associated with skill development component of NULM being implemented by various state governments. Therefore, we find that the activity being undertaken by the appellant would be covered within the scope of Serial No. 9A of Notification No. 25/2012-ST."

17.1. In the present case, I find that the appellant have undertaken the programmes as designed by the National Skill Development Corporation (NSDC) and therefore, I observe that the ratio laid down in the above case is squarely applicable to the case on hand.

17.2. Accordingly, by following the decision cited above, I hold that the appellant is entitled to the exemption from Service Tax on the services rendered by them in terms of Notification No. 25/2012-S.T. dated 20.06.2012 [Sl. No 9A].

18. The appellant also raised the ground that the services rendered by them fall squarely within the ambit of "approved vocational education course" and exempted under Section 66D(I)(iii) of Finance Act, 1994 and hence the said services are specifically excluded from the purview of Service Tax. As the services rendered by the appellant are exempted in

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terms of Notification No. 25/2012-S.T. dated 20.06.2012 [Sl. No 9A], I am not discussing this ground raised by the appellant.

19. I also observe that the appellant has contested the demand on account of limitation also. It is the appellant's submission in this regard that they have not suppressed any information from the Department and all transactions were duly recorded in their books of accounts, which were open to inspection by the Departmental authorities at all times. The appellant also pointed out that they had been in correspondence with the jurisdictional Range Office seeking clarification on the issue. In this regard, the appellant has referred to the letter dated 05.08.2013 addressed to the Superintendent, Malda Range seeking clarification as to the liability to Service Tax on the said services and the reply thereto, which are extracted below for the sake of ready reference: -

ANNEXURE - F (4)

M.M. Group
Education Institute

REGISTERED UNDER SDIS (NCVT)
APPROVED BY DGE & T. (GOVT. OF INDIA)

ACCREDITED INSTITUTE UNDER NIELIT (DOEACC)
FOR 'O' LEVEL / BCC / CCC COURSES.

2nd Floor, MRS Building, D.C.R. Market, P.O. & Dist- Malda, Pin-732101
Phone: (03512) 257475 / 0434050151 E-mail: mmgroupm1801@gmail.com

Ref. No. _____ Date _____

MMG/MLD/ST/2013-14/72 DATE-05-08-2013

To
The Superintendent
Custom & Central Excise
Government of India, Ministry of Finance
Department of Revenue
Maheshmati Near NCC Office
Malda Range, Malda.

Sub: Regarding Service Tax on Vocational Education/Training courses.


Respected Sir,
With due respect that I, Swapan Sarkar, Partner of M.M. Group, 2nd floor, MRS Building, D.C.R. Market, P.O. & Dist- Malda, Pin-732101.

As per circular No. 164/15/2012-ST— the clarification has been sought in respect of levy of service tax on certain vocational education/training/skill development courses (VEC) offered by the Government (Central Government of State Government) or local authority themselves or by an entity independently established by the Government under the law, as a society or any other similar body.


In this fact I want to know you that VEC is exempted from service Tax? Please if possible the above mention circular clarification to me and oblige.

Thanking You

Yours faithfully,
M. M. Group
Swapan Sarkar
Partner
Swapan Sarkar
Partner M.M. Group
MRS Building, D.C.R. Market,
P.O. & Dist- Malda, Pin-732101



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	GOVERNMENT OF INDIA MINISTRY OF FINANCE: DEPARTMENT OF REVENUE OFFICE OF THE SUPERINTENDENT OF CENTRAL EXCISE & SERVICE TAX MALDA RANGE: MAHESHWATI MALDA: WEST BENGAL: PIN-732101 TEL/ FAX No. 03512-253406
	C. No.- V(20)05/STax/Misc/MLD/2012-13/14b

Dated 05/08/2013

To
 Swapan Sarkar
 Partner of M.M.Group
 MRS Building, D.C.R Market,
 P.O & Dist- Malda, Pin-732101

Dear Sirs,

Subject: - Regarding Service Tax on Vocational Education / Training Courses.

With reference to your letter under Ref No-MMG/MLD/ST/2013-14/72 dated- 05/08/2013 and regarding clarification in respect of levy of Service Tax on certain vocational education / training / skill development courses (VEC) offered by the Government or Local Authority themselves or by an entity independently established by the Government under the law, as a society or any other similar body.

As per circular No- 164 /15 /2012-ST dated- 28/08/2012 the question of Service Tax does not arise when a VEC is offered by the Govt.(Central Government or State Government) or a Local Authority. Moreover, as per sub clause (iii) of clause (1) of Section (66D) approved Vocational education course is in the negative List of Service and does not attract Service Tax.

Yours faithfully,


Superintendent
 Central Excise & service Tax
 Malda Range: Malda
 Superintendent
 Central Excise & Service Tax
 Malda Range: Malda

20. From the above, I find that the appellant had sought clarification on the issue vide their letter dated 05.08.2013 and to that letter, the Superintendent, Malda Range had replied that Service Tax is not leviable when a VEC is offered by the Government or local authority. Thus, it is evident from the above that the Department was well aware of the activity undertaken by the appellant. As the activity undertaken by the appellant was well within the knowledge of the Departmental authorities, I hold that there is no suppression of facts involved in this case. Thus, I find that the invocation of extended period of limitation is not sustainable. Consequently, I set aside the demand confirmed against the appellant by invoking the extended period of limitation. Consequently, no Service Tax is liable to be confirmed against the appellant, being barred by limitation.

Service Tax Appeal No. 75699 of 2023

21. The issue involved in this appeal being identical to that in Service Tax Appeal No. 75950 of 2022, I hold that the appellant succeeds on merit, in view of the discussions in the preceding paragraphs and in the light of the decision in the case of *SRK Innovatives School of Information Pvt. Ltd. (supra)*.

21.1. Further, in this case, I find that a Show Cause Notice on the same issue had already been issued to them by the Department on 24.04.2019, demanding Service Tax and hence I hold that another Show Cause Notice cannot be issued by invoking the extended period of limitation on the very same issue. In support of this view, I rely upon the decision rendered by the Hon'ble Apex Court in the case of *Nizam Sugar Factory v. Collector of Central Excise, A.P. [2006 (197) E.L.T. 465 (S.C.)]*. The relevant observation of the Hon'ble Apex Court in the aforesaid judgement reads thus:

"9. Allegation of suppression of facts against the appellant cannot be sustained. When the first SCN was issued all the relevant facts were in the knowledge of the authorities. Later on, while issuing the second and third show cause notices the same/similar facts could not be taken as suppression of facts on the part of the assessee as these facts were already in the knowledge of the authorities. We agree with the view taken in the aforesaid judgments and respectfully following the same, hold that there was no suppression of facts on the part of the assessee/appellant."

21.2. Hence, by following the above judgement, I hold that the Show Cause Notice dated 30.12.2020 issued in this case is barred by limitation in view of the decision of the Hon'ble Apex Court in the case of *Nizam Sugar Factory(supra)*. Accordingly, the demand confirmed against the appellant by invoking the extended period of limitation in the said Show Cause Notice is also set aside.

22. Hence, I hold that in both the cases, the appellant succeeds on merits as well as on limitation.

23. The appeals are disposed of thus.

(Order pronounced in the open court on **15.07.2025**)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

Sdd