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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 24th November, 2025

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\+ **SERTA 20/2025 & CM APPL. 65505/2025**

THE COMMISSIONER OF CENTRAL TAX,
CGST DELHI EAST, ...Appellant

Through: Mr. Shubham Tyagi, SSC, CBIC.

versus

M/S T C GLOBAL INDIA PVT LTD .....Respondent

Through: Mr. Gaurav Gupta, Mr. Rahul Agarwal and Ms. Saurabh Dahiya, Advs.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RENU BHATNAGAR

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.

2. The present appeal has been filed by the Appellant under Section 35G of the Central Excise Act, 1944, *inter alia*, assailing the impugned order dated 13th December, 2024 *(hereinafter, 'impugned order')* passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi *(hereinafter, 'CESTAT')*.

3. *Vide* the impugned order, the appeal of the Respondent-taxpayer has been allowed by CESTAT, and it has been held that the Respondent is not an '*intermediary*' in terms of Rule 2(f) of the Place of Provision of Services Rules, 2012 *(hereinafter, 'POPS Rules'*) and the services rendered by the

Respondent constitute *export of services* under Rule 6A of the Service Tax Rules, 1994.

4. Additionally, the Show Cause Notice dated 17th December, 2015 *(hereinafter, 'SCN')* has also been held to be barred by time, *vide* the impugned order.

5. The issues raised in the present appeal are two-fold:

(i) Firstly, whether the present appeal is maintainable or not, as the question of taxability is being raised.

(ii) Secondly, whether Respondent's services are *intermediary services* or not.

6. On the last date of hearing,*i.e.*, 10th November, 2025 the Court had requested ld. Counsels for the parties to find out the status of the decision in ***W.P. (C) 10189/2025*** titled ***Commissioner DGST Delhi vs. Global Opportunities Pvt. Ltd.*** wherein the question relating to support services being provided for admission to foreign universities was held to be *export of services* and not educational services.

7. Additionally, ld. Counsels for the parties were directed to examine the aforesaid judgment and verify if any SLP has been filed against the same.

8. Today, Mr. Shubham Tyagi, ld. SSC for the Appellant, has submitted upon inquiry being made, that he does not have any knowledge of any challenge raised to the said judgment in ***Global Opportunities (supra).***

9. A brief background of the Respondent's case is that, it is a firm which is engaged in providing support services in India to foreign universities and institutions. It arranges and facilitates provisional student recruitment services as well.

10. Agreements have been entered into between the Respondent and the

foreign universities wherein the Respondent arranges and facilitates recruitment of students as their education agent and for the said purpose, the Respondent earns a commission. According to the Respondent, the commission earned is not liable to Service tax as the services of the Respondents are provided to foreign clients and revenues are earned in foreign exchange.

11. On the other hand, the Department's stand is that the service provided by the Respondent is taxable as the same would qualify as *intermediary service.*

12. The agreements entered into by the Respondent are inter alia, with at least 244 foreign universitiesfrom across the world, such as University of Technology, Sydney, Brunel University of London and American University of Barbados.

13. The SCN was issued to the Respondent on 17th December, 2015 alleging that since the Respondent's services constitute *intermediary services*, there is a responsibility on the Respondent to deposit Service Tax. It was allegedthat in terms of Rule 9(c) of the POPS rules the place of provision of intermediary services is the location of the service provider. Considering that the Respondent was located in India, the place of provision of Services is in India. Therefore, though, the universities with whom it had agreements are abroad, the same would not constitute *export of services.*

14. Further, the SCNproceeded on the basis that under Rule 6A of the Service Tax Rules, 1994, the services being rendered by the Respondent would not constitute *export of services*as the place of provision of services is in India.

15. In addition,in order to hold that the Respondent is an *intermediary*,

paragraph 5.9.6 of*Central Board of Excise and Customs* Education guide was relied upon. The relevant portion of the SCN is extracted herein:

> *"6.3. Further, in terms of Rule 9(c) of the Place of Provision of Services Rules, 2012, the place of provision of Intermediary services is the location of service provider. Since M/s NNCCPL are located in India, the place of provision of services is in the taxable territory. Therefore, the contention of M/s NNCCPL that the services provided by them were export of services in terms of Rule 6A of the Service Tax Rules, 1994, is not legally sustainable and they were required to discharge their Service Tax liability on the said commission received from Foreign Education Services Providers during the period 01.07.2012 to 30.09.2015*
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> *xxx*
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> *6.5. On examining the activities of M/s NNCCPL in the light of Rule 2 (f) of the Place of Provision of Service Rules, 2012 and the guiding principle discussed in para 6.4 above, it is clear that they were providing intermediary services as they had been authorized by the Foreign Education Service Providers to arrange and facilitate the activity of student recruitment in India. Thus, M/ s NNCCPL were required to discharge their Service Tax liability on the commission received by them from Foreign Education Service Providers, who were their Principals."*

16. On the above basis, the SCN proposed to raise a demand of service tax of Rs. 15,58,58,003/- along with interest under Section 75 of the Finance Act, 1994and penalties under Section 77 and 78(1) of the Finance Act, 1994.

17. Thereafter, the Order-in-Original was passed by the Adjudicating Authorityon 2nd May, 2017*(hereinafter, 'Order-in-Original'),*wherein the Adjudicating Authority came to the conclusion that the Respondent's

services were *intermediary services*, as the Respondent were primarily engaged in advertising, promoting the educational services and the foreign universities with whom they had agreements.

18. Although the agreements entered into by the Respondents were with 244 foreign universities, however, for the purpose of the SCN, the Adjudicating Authority considered some of the agreementswith the University of Technology, Sydney, Brunel University London and American University of Barbados.

19. The nature of services rendered by the Respondent included arranging or facilitating recruitment of students, providing information to prospective students, assisting in the application process, liaisoning with foreign universities, assisting and advising regarding payment of tuition fee and associated fee, assistance for issuance of visa, assistance about accommodation options etc.

20. The Respondent was earning commission in foreign exchange and was not paying service tax, which led to the issuance of the SCN. The Adjudicating Authority consideredother cases which dealt with *intermediary services*and finally held that the services of Respondent satisfied all the components of the definition of *intermediary* under Rule 2(f) of the POPS Rules.The Adjudicating Authority also concluded that there is no case made out for holding the same to constitute *export of services.*The relevant portion of the observations made are set out below:

> *"A.9.2. Thus, in my view M/s NNCCPL satisfy all the components of the definition of an 'Intermediary' as defined under Rule 2(f) of Place of Provision of Services Rules, 2012. Hence, I hold that they are engaged in providing services as an*

'Intermediary'.

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A.10.5. In this context, I find that under Rule 6A(1)(d) of the Service Tax Rules,1994 provides that, a provision of any service shall be treated as export of service when the place of provision of the service is outside India. However, in terms of Rule 9 of the POPS Rules, 2012, the place of provision in case of intermediary services is the location of the service provider. Thus, the place of provision in the instant case is the location of the Noticee, which happens to be in India and not outside India. As place of provision in the case is within India it cannot be termed as a case of export.

A.10.6. Thus I find that since the services provided by the Noticee have all the attributes of 'Intermediary services', as defined under Rule 2(f) of POPS Rules, 2012. The place of provision of such services as per Rule 9(c) of POPS Rules, 2012 is the location of the service provider, which is in India. Hence, no case is made out for export of services. The Noticee have been providing Intermediary services which are a taxable service. As such, the Noticee are liable to pay service tax on the services being rendered by them."

21. Further, the Adjudicating Authority also held that the SCN was issued within the limitation periodunder Section 73 of the Finance Act, 1994. Thereafter, the demand was confirmed in the following terms:

"***ORDER***

(i) hereby confirm the demand for Service Tax amounting Rs. 15,58,58,003/- (Rupees Fifteen Crore, Fifty Eight Lakh, Fifty Eight Thousand and Three only), inclusive of Education Cess and Secondary & Higher Education Cess, from M/s N & N Chopra Consultants (P.) Ltd., 1006,

Chiranjiv Tower, 43, Nehru Place, New Delhi not paid by them on the 'Intermediary' Services provided by them during the period July 2012 to September 2015 under Section 73(2) of the Finance Act, 1994 and order for its recovery from M/s N & N Chopra Consultants (P.) Ltd., New Delhi.

(ii) I hereby order the payment of interest by M/s N & N Chopra Consultants (P.) Ltd., New Delhi on delayed payment of the confirmed amount as per (i) above in terms of Section 75 of the Finance Act, 1994.

(iii) I impose a penalty of Rs. 8,91, 18,2491- (Rupees Eight Crore, Ninety One Lakh, Eighteen Thousand, Two Hundred and Forty Nine only) on M/s N & N Chopra Consultants (P.) Ltd., New Delhi under Section 78 of the Finance Act, 1994 as discussed in my findings above. As per the second proviso to Section 78 (1), if the service tax and interest is paid within a period of thirty days of the date of receipt of this order, the penalty payable shall get reduced to twenty five percent of the confirmed 'amount', provided further that if the reduced penalty has also been paid within thirty days of this order.

(iv) I impose a penalty of Rs.5,000/- (Rupees Five Thousand only) on M/s N & N ChopraConsultants (P.) Ltd., New Delhi under Section 77(1) of the FinanceAct, 1994."

22. Pursuant there to, the Respondent preferred an appeal against the Order-in-Original. The CESTAT considered the contention that the Respondent had agreements with more than 244 foreign universities.

23. In addition, CESTATalso held that the context of the agreements and the content therein had been ignored by the adjudicating authority. It was

also held that Rule 9 of POPS rules have been wrongly applied.The definition of *intermediary* under Rule 2(f) of the POPS Rules was also considered. CESTAT also referred to Rule 6A of the Service Tax Rules, 1994. In this respect, the findings of the tribunal are as under:

> *"29. All the conditional as laid down in Rule 6A of Service Tax Rules, 1994 are held satisfied in the present ca se. Though department's stand is that place of provision of service is taxable territory as the services are provided to Indian students. But we hold that services as mentioned above have been rendered by the appellants for promotion and publicity of foreign universities among Indian students. The agreement for the same is between appellant and foreign universities. There is no agreement of appellant with Indian students. The amount in question is received from foreign universities in convertible foreign exchange and not from Indian students. The students are paying fees in case of getting admission, to the foreign university only. These observations are sufficient for us to hold that Indian students are not the service recipients of the impugned services rendered by the appellants. The place of provision is wrongly held to be in taxable territory (India). Hence foreign consultancy services provided by an assessee amounts to 'Export of services' and they are outside the ambit of service tax and they are wrongly alleged as being rendered by intermediary.*
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> *xxx*
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> *31. Coming to "export of service" post 1st July, 2012, the basic principle to be seen is who is the recipient of the service, whether the place of provision of service is outside India and the party abroad is deriving benefit from the service in India. The High Court of Delhi in Verizon Communication India Private Limited Vs Assistant*

Commissioner, ST, Delhi - 2018 (8) GSTL 32 (Del.) observed that the recipient of the service is determined by the contract between the parties and who has the contractual right to receive the ST/53328/2018 service and who is responsible for the payment for the service and the department has lost sight of this essential difference. The High Court of Delhi then considered the decision of the Larger Bench of the Tribunal in Paul Merchants Ltd, Vs. CCE. Chandigarh - 2012 (12) TMI 424-CESTAT-DEL.-LB which was rendered with reference to ESR, 2005 where the assessees were intermediary agents, providing money transfer services to foreign travellers, who were the end user on behalf of their principals and the contention of the department that this did not qualify as export of service was rejected referring to the CBEC clarification letter no. 334/1/2019-TRU dated 26.02.2010 that as long as the party abroad is deriving benefit from service in India, it is an export of service. The relevant paras of the decision in Verizon Communicat1on India Private Limited (supra) Is quoted as under:-

> *"51. In the considered viewof the Court, the judgment of theCESTAT in Paul Merchants Ltd, v.CCE, Chandigarh (supra) isright in holding that "The service recipient is the person onwhose instructions/orders the service is provided who is obliged to make the payment from the same and whose need is satisfied by the provision of the service. "The Court furtheraffirms the following passage in the said judgment in Paul Merchants Ltd. v. CCE, Chandigarh (supra) which correctly explains the legal position :*
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> *"It is the person who requested for the*

service is liable to makepayment for the same and whose need is satisfied by theprovision of service who has to be treated as recipient of theservice, not the person or persons affected by the performanceof the service. Thus, when the person on whose instructions the services in question had been provided by the agents/subagents in India, who is liable to make payment for theseservices and who used the service for his business, is locatedabroad, the destination of the services in question has to betreated abroad. The destination has to be decided on the basisof the place of consumption, not the place of performance ofService."

52. In Vodafone Essar Cellular Ltd. v. CCE (supra), the CESTATexplained the arrangement lucidly in the following words :

"Your customer's customer Is not your customer. When aservice is rendered to a third party at the behest of yourcustomer, ST/53328/2018 the service recipient is yourcustomer and not the third party. For example, when a florist delivers a bouquet on your request to your friend for which you make the payment, as far as the florist is concerned you are the customer and not your friend.·

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35. In the light of entire above discussion, we held that appellants are wrongly held as intermedia in terms of Rule 2(f) of Place of Provision Rules, 2012. The services rendered amounts to

> *'Export of Service' in terms of Rule 6A of Service Tax Rules. Hence Rule 9 of Place of Provision Rules has wrongly been invoked. Appellant is, therefore, not liable to pay service tax on foreign Consultancy fee. The show cause notice is otherwise held to be barred by time. Resultantly, the order under challenge is set aside and the appeal is hereby allowed."*

24. Thus, in terms of the above decision,the findings of the CESTAT is that under Rule 9 of POPS rules, the services provided by the Respondent constitute *export of services* and they are not *intermediary services*.

25. Heard. This very issue has been dealt with by this Court in ***W.P. (C) 10189/2025*** titled ***Commissioner DGST Delhi vs. Global Opportunities Pvt. Ltd.*** wherein the Court has considered the provisions of the Integrated Goods and Services Tax Act, 2017 *(hereinafter, 'IGST Act')*.

26. The present case however, relates to the Service tax regime. The relevant provisions of the POPS rules would show that under Rule 2(f) of the POPS rules, the definition of *intermediary* is as under:

> *"(f) "intermediary" means a broker, an agent or any other person, by whatever name called, who arranges or facilitates a provision of a service (hereinafter called the 'main' service) or a 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;"*

27. Additionally, Rule 6A of the Service Tax Rules, 1994 is also relevant and is extracted below:

> *"**RULE 6A (1)** - The provision of any service provided or agreed to be provided shall be treated as export of*

service when -
(a) the provider of service is located in the taxable territory
(b) the recipient of service is located outside India
(c) the service is not a service specified in the section 66D of theAct
(d) the place of provision of the service is outside India
(e) the payment for such service has been received by theprovider of service in convertible foreign exchange; and
(f) the provider of service and recipient of service are not merelyestablishment of a distinct person in accordance with Item (b)of Explanation 2 of clause (44) of section 65B of the Act.

(2) Where any service is exported, the Central Government may, bynotification, grant rebate of service tax or duty paid on input servicesor inputs, as the case may be, used in providing such service and therebate shall be allowed subject to such safeguards, conditions andlimitations, as may be specified, by the Central Government, bynotification."

28. The definition of *intermediary* under Rule 2(f) of the POPS rules is in *parimateria* to the definition of *intermediary* under Section 2(13) of the IGST Act. Similarly, Section 13(2) and Section 13(8)of the IGST Act stipulate that the place of provision of *intermediary services* shall be the location of the service provider. The same is also provided under Rule 9(c) of POPS rules which reads as under:

"9. ***Place of provision of specified services.-*** *The place of provision of following services shall be the location of the service provider:-*
(a) Services provided by a banking company, or a financial institution, or a non-banking financial company, to account holders;

(b) Online information and database access or retrieval services;
(c) Intermediary services;
(d) Service consisting of hiring of means of transport, upto a period of one month."

29. The provisions under the IGST Act have already been considered by this Court in in ***W.P.(C) 10189/ 2025*** titled ***Commissioner of Delhi Goods and Service Tax DGST Delhi v.Global Opportunities Private Limited Through Its Authorized Representative.***In the said decision, the Court has also analysed the decisionof the Co-ordinate Bench of this Court in ***Ernst & Young Ltd v. Add. Commr. CGST Appeals-II, Delhi, 2023 (73) G.S.T.L. 161 (Del.),*** and the decision of Bombay High Court in ***K.C. Overseas Education Pvt. Ltd. v. Union of India, 2025:BHC-NAG:2166-DB.***

30. In ***Ernst & Young Ltd (supra),*** the Court held as under:

"18. The principal question to be addressed is whether the Service rendered by the petitioner to EY Entities in termsoftheserviceagreementconstitutesservice sasan 'intermediary'.
19. Theterm'intermediary'isdefinedunderSection 2(13)oftheIGST Act.
"intermediary" means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account;"
20.<u>Aplainreadingoftheaforesaiddefinitionmakesitamply clear that an intermediary merely</u>

> ***"arranges orfacilitates"supplyofgoodsorservicesorbothbetweentwo or more persons. Thus, it is obvious that a personwho supplies the goods or services is not anintermediary. The services provided by theintermediary only relate to arranging or facilitatingthe supply of goods or services from the supplier. Inthepresentcase,thereisnodisputethatthepetitionerdoes not arrange or facilitate services to EY entitiesfrom third parties; it renders services to them. Thepetitioner had not arranged the said supply from anythird party.***
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> 21. *It is important to note that the Adjudicating Authorityhadalsoacceptedthatthepetitionerhas provided the Services. As noted hereinbefore, the Adjudicating Authority had returned a categorical finding that "the party provides services on behalf of E&Y Ltd., UK in India to its (E & YLtd.,UK)overseas client". The Adjudicating Authority had reasoned that since the petitioner provides services on behalf of E&Y Limited (the petitioner's head office), it was an intermediary. This reasoning is fundamentally flawed. The Adjudicating Authority has misunderstood the expression 'intermediary' as defined under Section 2(13) of the IGST Act. A person who provides services, as opposed to arranging or facilitating of goods from another supplier, is not an intermediary within the definition of Section 2(13) of the IGST Act."*

31. Thus, in ***Ernst & Young Ltd (supra)*** it was categorically held that a person who supplies the goods and services is not an *intermediary* and it was

only a person who arranges or facilitates the services who would be considered as an *intermediary*.

32. A similar view was also takenin ***K.C. Overseas Education Pvt. Ltd. (supra)*** wherein the Bombay High Court held as under:

> *"2. Only contention raised by Mr. Bhattad, the learned Counselforrespondents,isthatsub-clause3ofsec2(6) oftheIGSTActisnotcompliedwith.Section2(6)of the IGST Act defines the expression "export of services", oneoftheingredientsofwhichis"whentheplaceof supplyofserviceisoutsideIndia".Wehoweverfin dthat the entire definition, has to be read as a whole and not in a piecemeal manner and will have to be read in the background of what the statute defines a 'recipient' to mean as indicated in section 2(6)(ii), as defined in Section 2(93) of the GST Act in conjunction with Sec.13(2).All these provisions,in light of the definition of 'intermediary' as defined in Section 2(13) of the IOGSTActhasbeenconsideredbythelearnedDiv ision Bench of the Delhi High Court in* ***Ernst & Young Ltd Vs.Add.Com.CGST12023(73)GSTL161(Del.)*** *,which also considers, the circular dtd 20.9.2021 bearingNo.159/15/21-GSTissuedbytheCentralBoard of Indirect Taxe and Customs.*
> *3. Wehaveperusedthereasonsandconclusionin* ***Ernst & Young Ltd Vs. Add. Com. CGST*** *and upon hearing the contention of Mr. Bhattad, learned Counsel for respondent Nos. 3 and 4, do not see any ground made out for us to take a different view.*
> *4. It is also necessary to note, that the*

function, which the petitioner is performing under the agreement with the foreign university is also considered by the Service Tax Appellate Tribunal in Service Tax Appeal No. 85867/16intheorderdtd11.10.2023,inthecaseof the petitioner itself, which has held that the appellant is providing service to universities located in foreign countrieswhoarepayingconsiderationtotheappellant on account of which in view of the definition of service it has been held that the appellant was not providing service to the students in India by recommending their names to the foreign university for being enrolled as students. It is not disputed by learned counsel Mr. Bhattad that the definition of 'intermediary' in service tax regime as well as the GST regime are identical.

5. We have also perused the impugned decision dtd 7.3.2024 by the Addl. Commissioner Appeals and thediscussion and findings as recorded therein. We however in view of what has been held in ***Ernst & Young Ltd Vs. Add. Com. CGST*** *(supra) which considers a similar position and similar provisions, are unable to agree with the reasons stated therein. We are unable to hold, that considering the definition of 'recipient' as contained in sec 2(93) of the GST Act, which holds an entity to be a recipient in case their consideration is payable supply of services, is the person who is liable to pay that consideration and the language of Sec 13(2) r/w sec 2(6) of IGST in light of the definition of intermediary as contained in sec 2(13) as indicated above, that the petitioner would not*

fall within that definition and therefore, would be entitled to a refund of the GST paid by the petitioner to the department subject to receipt of the consideration in foreign currency. We therefore, quash and set aside the impugned decision dated 7.3.2024 and allow the petitions in the above terms. Considering the circumstances, there shall be no costs."

33. The decision of the Bombay High Court was challenged before the Supreme Court of India in ***Union of India & Ors. v. K.C. Overseas Education Pvt. Ltd., Petition(s) for Special Leave to Appeal (C) Nos. 21104-21105/2025.*** The relevant portion is extracted as under:

" Having regard to the judgment dated 06.05.2025 passed by this Court in Civil Appeal Nos. 10815-10819/2014(CommissionerofServiceTaxIII,Mumbai Vs. M/s. Vodafone India Ltd.) and connected matters, these special leave petitions also stand dismissed.

We also bear in mind the dictum of this Court dated04.11.2024inSLP(C)No.25992/2024 (Commissioner, Central Excise, CGST-Delhi South Commissionerate and Anr. Vs. Blackberry India Pvt. Ltd.)

Pending application(s)shall also stand disposed of."

34. Thus, the Supreme Court reiterated its decisions in ***Commissioner of Service Tax v. Vodafone India Ltd. 2025 INSC 914*** and ***SLP (C) No. 25992/2024*** titled ***Commissioner, Central Excise, CGST-Delhi South***

Commissionerate &Anr. v. Blackberry India Pvt. Ltd.

35. A similar view was also taken by the CESTAT, Mumbai Bench *in* ***M/s Krishna Consultancy v. Commissioner of CGST, Nagpur Service Tax Appeal No. 85867/2016***, wherein the CESTAT had observed as under:

> *"Appellantisengagedingivingguidancetoprospective students to seek admissions in universities located outside India. The appellant does not collect any consideration from prospective students. Appellant has entered into contracts with the universities abroad and arrangements are that when a student guided by the appellantsecuresadmissioninuniversityintheforeign country and pays fee, a part of the fee is paid to the appellant as commission. Appellant paid Rs. 48,06,310/- in cash and through cenvat account Rs. 2,66,831/- towards service tax on the said activity during theperiod from 04.05.2013 to07.02.2014.After making the above payments towards service tax, appellant realized that the service tax was leviable on servicesprovidedwithinIndiaandtherewasnoservice tax leviable on services which are provided outside India. On realization that their services were export of service, they filed on 07.04.2014 a claim for refund of already paid service tax amounting to Rs. 50,73,141/-. Appellant was issued with a show cause notice dated 27.06.2014. The show cause notice contended that the appellanthadnotuploadedtherevisedST-3returnfor the period from October 2012 to March 2013 and that for the period from October 2012 to March 2013, the appellant had disclosed their transaction as domestic*

service.Itwasfurthercontendedinthesaidshowcause noticethattheappellantwasprovidingservicetoIndian students who were beneficiaries of the activities of the appellant. It was further contended that the appellant was functioning like intermediary defined under Rule 2(f) of Place of Provision of Services Rules, 2012. The saidshowcausenoticealsostatedthattheappellanthas not provided proof of having received entire consideration in convertible foreign exchange. The refund application was adjudicated through order-in-originaldated12.05.2015.Appellant'scontentionswere not accepted by the original authority and the refund was rejected. Appellant preferred appeal against the saidorderbeforelearnedCommissioner(Appeals)who didnotinterfereintheoriginalorderand,therefore,the appellant is before this Tribunal.

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5. We have carefully gone through the record of thecaseandsubmissionsmade.Wenotethattheappellantis providing guidance to Indian students withoutcharging any consideration from them. In view of thedefinition of service, we hold that the appellant is notproviding any service to prospective students in India.We hold that the appellant is providing service touniversities located in foreign countries who arepaying consideration to the appellant. We, therefore,holdthattheservicescoveredbytheseproceedingsareexport of services.*We have also gone through the decision of this*

Tribunal in the case of Sunrise Immigrations Consultants Pvt. Ltd. decided by Chandigarh Bench of this Tribunal. We note that this Tribunal has held that such organisations cannot be treated as intermediaries under the definition of Rule 2(f) of Place of Provision of Service Rules, 2012. We, therefore,holdthatthecontentionofRevenuethat the appellant is an intermediary is not in accordance with law.Wefurthernotethattheappellanthasforegon ethe refund of Rs. 26,43,969/-. Therefore, now the refund claim works out to the tune of Rs. 24,30,172/-. We note that the appellant has not provided all the foreign inwardremittancecertificatescoveringthetrans actions involving service tax of Rs. 24,30,172/-. We, therefore, remand the matter to the original authority with a direction not to rake up any other issue but to collect foreign inward remittance certificates from the appellantinrespectofthosetransactionswhichin volve refund of Rs. 24,30,172/- out of the refund claim of Rs. 50,73,141/- and allow the refund out of Rs. 24,30,172/- in respect of such transactions where FIRCS get producedbytheappellantbeforetheoriginalauth ority. WedirecttheappellanttoproduceallFIRCSconc erned with the refund amount of Rs. 24,30,172/- before the originalauthority.Forthesaidpurpose,wesetasi dethe impugned order."

36. In the present case, the CESTAT has followed the decision in ***Verizon Communication India Pvt. Ltd. v. Asstt. Commr., S.T., Delhi-III, 2018 (8)***

G.S.T.L. 32 (Del.). In ***Verizon Communication India Pvt. Ltd. (Supra)***, this Court had observed as under:

> *"46. The position does not change merely because the subscribers to the telephone services of Verizon US or its US based customers 'use' the services provided by Verizon India. Indeed in the telecom sector, operators have network sharing and roaming arrangements with other telecom service providers whose services they engage to provide service to the former's subscribers. Yet, the 'recipient' of the service is determined by the contractbetweenthepartiesandbyreferenceto(a)who hasthecontractualrighttoreceivetheservices;and(b) who is responsible for the payment for the services provided (i.e., the service recipient). This essential difference has been lost sight of by the Department. In the present case there is no privity of contract between Verizon India and the customers of Verizon US. Such customersmaybethe'users'oftheservicesprovidedby Verizon India but are not its recipients.*
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> *XXXX*
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> *50. The decision of larger Bench of CESTAT in* ***Paul Merchants Ltd v. CCE, Chandigarh*** *(supra) may be referred to at this stage. The period with which the disputeinthatcaserelatedtowasbetween1stJuly, 2003 and 30th June, 2007. It involved, therefore, the interpretation of the ESR 2005 as amended and applicable during the said period. There the Assessees were intermediary agents providing money transfer services to foreign travellers who were the end user on*

behalf of their principals. The contention of the Department that this did not qualify as 'export of service' was rejected by the CESTAT. It noted that the CBEChadtoissueaclarificationletterNo.334/1/ 2010- TRU dated 26th February, 2010 acknowledging the difficulties that were faced by the trade in complying with the condition that the services had to be 'used outsideIndia'.Itwasclarifiedthat"aslongasthep arty abroadisderivingbenefitfromserviceinIndia,iti san export of service.

51. IntheconsideredviewoftheCourt,thejudgmentof the CESTAT in ***Paul Merchants Ltd v. CCE, Chandigarh*** *(supra) is right in holding that "The service recipient is the person on whose instructions/orders the service is provided who is obliged to make the payment from the same and whose need is satisfied by the provision of the service." The Court further affirms the following passage in the said judgment in Paul Merchants Ltd v. CCE, Chandigarh (supra) which correctly explains the legal position:*

> *"It is the person who requested for the service is liable to make payment for the same and whose needissatisfiedbytheprovisionofservicew hohas to be treated as recipient of the service, not the person or persons affected by the performance of the service. Thus, when the person on whose instructions the services in question had been providedbytheagents/sub-agentsinIndia,who is*

liabletomakepaymentfortheseservicesand who usedtheserviceforhisbusiness,islocatedabroad, thedestinationoftheservicesinquestionhastobe treated abroad. The destination has to be decided onthebasisoftheplaceofconsumption, nottheplaceofperformanceofService."

52.In ***Vodafone Essar Cellular Ltd. v. CCE*** *(supra), the CESTAT explained the arrangement lucidly in the following words:*

"Your customer's customer is not your customer. When a service is rendered to a third party at the behest of your customer, the service recipient is your customer and not the third party. For example,whenafloristdeliversabouqueton your request to your friend for which you make the payment, as far as the florist is concerned you are the customer and not your friend."

53. The Department was also not justified in characterisingthearrangementofprovisionofservices as one between related persons viz., Verizon India and VerizonUS.IndoingsotheDepartmentwasapplyinga criteria that was not stipulated either under the ESR or Rule 6A of the ST Rules."

37. The above decision in ***Verizon Communication(supra)*** was considered by the Supreme Court in ***Blackberry India Pvt. Ltd.(supra)*** and ***Vodafone India Ltd. (Supra)*** which were referred to by the Supreme Court while dismissing the SLP in ***K.C. Overseas Education Pvt. Ltd. (supra)*** case.

38. Thus, the consistent opinion in the aforesaid judicial precedentshas been that services such as those offered by the Respondent are not *intermediary services*. In ***Global Opportunities (supra)*** all these decisions have been considered by this Court and finally it has been observed as under:

> *"25. Moreover, recently, owing to the confusion that was being caused, the GST Council in its 56th meeting held at New Delhi has also recommended omission of Clause (b) of Section 13(8) of the IGST Act to help Indian exporters to claim export benefits. The relevant portion of the said recommendation reads as under:*
>
> > *"**6. Amendment in place of supply provisions for intermediaryservicesunder section13(8) of the IGST Act:** The Council recommended omission of clause (b) ofsection13(8)ofIGSTAct2017.Accordingly,afterthe said law amendment, the place of supply for "intermediary services" will be determined as per the default provision under section 13(2) of the IGST Act, 2017 i.e. the location of the recipient of such services. ThiswillhelpIndianexportersofsuchservice stoclaim export benefits."*
>
> *Thus, 'intermediary services' are no longer services for which the place of location of the supplier would be deemed as the place of supply. Even for such services the place of the recipient of the services would be place of supply as per Section 13(2) of the IGST Act. The confusion that was prevalent relating to intermediaries and their entitlement to claim benefits on the basis of export of services is eliminated.*

39. In view of the above legal position, the impugned orderdoes not warrant any interference.

40. There is no *substantial question of law* that arises in the present case.

41. Accordingly, the present appeal is dismissed in these terms.

PRATHIBA M. SINGH
JUDGE

RENU BHATNAGAR
JUDGE

NOVEMBER 24, 2025*/kp/sm*