

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

REGIONAL BENCH - COURT NO. I

**Service Tax Appeal No. 61091 of 2019**

[Arising out of Order-in-Appeal No. CHD-EXCUS-001-APP-126-127-19-20 dated 28.08.2019 passed by the Commissioner (Appeals), Central Goods & Service Tax, Chandigarh]

**M/s Auscan Consultants India Ltd**

H O SCO 11 Sector 17E, Above Tejees, Near  
Neelam Theatre, Chandigarh U.T. 160017

**.....Appellant**

*VERSUS*

**Commissioner of Central Excise and  
Service Tax, Chandigarh-I**

Plot No. 19, Central Revenue Building, Sector  
17-C, Chandigarh 160017

**.....Respondent**

**WITH**

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[Arising out of Order-in-Appeal No. CHD-EXCUS-001-APP-126-127-19-20 dated 28.08.2019 passed by the Commissioner (Appeals), Central Goods & Service Tax, Chandigarh]

**M/s Sunil Jaggi**

Managing Director M/s Auscan Consultant Ltd.  
H O SCO 11 Sector 17E Near Neelam Theatre,  
Chandigarh U.T. 160017

**.....Appellant**

*VERSUS*

**Commissioner of Central Excise and  
Service Tax, Chandigarh-I**

Plot No. 19, Central Revenue Building, Sector  
17-C, Chandigarh 160017

**.....Respondent**

**APPEARANCE:**

Shri Joy Kumar, Advocate for the Appellant

Shri Aniram Meena & Shri Kanish Saini, Authorized Representatives for the  
Respondent

**CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)**

**HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 60123-60124/2026**

DATE OF HEARING: 10.10.2025  
DATE OF DECISION: 03.02.2026

**S.S. GARG:**

These two appeals are directed against the common impugned order dated 28.08.2019 passed by the Commissioner (Appeals), CGST Chandigarh, whereby the learned Commissioner (Appeals) has confirmed the demand of service tax along with interest and penalty and also imposed penalty of Rs. 10,000 under Section 77 of the Finance Act and also imposed penalty of Rs. 50,000 on the Managing Director Sunil Jaggi.

2. Briefly the facts of the present case are that the appellant is engaged in providing services to the overseas educational institution from where they were getting certain commission on the basis of agreements with the overseas colleges/universities. The Department entertained the view that the appellants are providing intermediary services in terms of Rule 2(f) of place of provision of service Rules, 2012 and thus liable to pay service tax. On these allegations, a show cause notice 02.06.2017 was issued to the appellant by the Additional commissioner, Central Excise & Service Tax Commissionerate, Chandigarh-I alleging that the appellant has provided "intermediary services" to the foreign educational institutions which is classifiable as intermediary service as defined under clause (f) of Rule 2 of place of provision of Services Rules, 2012 read with Rule 9 as the place of provision of service being location of appellant (the service provider in this case). The appellant filed reply controverted the allegations in

the show cause notice and after following the due process, the Joint Commissioner, Central Goods & Service Tax, Chandigarh vide its order dated 06.04.2018 confirmed the demand of Service Tax alongwith interest & penalty. Aggrieved by the said order, the appellant filed the appeal before the Commissioner (Appeals), Central Goods & Service Tax, Chandigarh and duly placed reliance upon the decision passed by the CESTAT Chandigarh in the case of ***M/s Sunrise Immigration Consultants Private Limited Versus CCE & ST, Chandigarh vide Final Order No. 62221/2018 dated 16.03.2018***. In spite of that the Commissioner (Appeals) Central Goods & Service Tax, Chandigarh upheld the order of the adjudicating authority and dismissed the appeal of the appellant. Hence, the present appeal.

3. Heard both the parties and perused the material on record.

4. Learned counsel for the appellant submits that the impugned order is not sustainable in law as the same has been passed without properly appreciating the facts and the law. He further submits that the issue involved in the present case is no more *res integra* and has been settled by the Tribunal in large number of cases. Learned counsel has placed reliance on the following decisions:

- *Pioneer Immigration And Education Consultancy Private Limited VERSUS Commissioner of Central Excise and Central Goods & Service Tax, Ludhiana [Final Order No. 60522/2024 dated 10.09.2024 in the matter of Appeal No. ST/60480/2023 passed by the Hon'ble CESTAT, Chandigarh]*
- *M/s Sunrise Immigration Consultants Private Limited Vs. CCE & ST, Chandigarh [Final Order No. 62221/2018 dated*

*16.03.2018 in the matter of Appeal No. ST/52205/2015 passed by the Hon'ble CESTAT, Chandigarh).*

- *M/s Sunrise Immigration Consultants Private Limited Vs. CCE & ST, Chandigarh [Final Order No. 60512-60513/2024 dated 06.09.2024 in the matter of Appeal No's. ST/60241-60242/2022 passed by the Hon'ble CESTAT, Chandigarh).*
- *M/s Medway Educational Consultant P. Ltd. vs. Commissioner of CGST, Delhi West [Final Order No. 55451/2024 dated 27.03.2024 in the matter of Appeal No. ST/53328 of 2018 passed by the Hon'ble CESTAT, New Delhi).*
- *M/s Krishna Consultancy vs. Commissioner of CGST, Nagpur [Final Order No. 86769/2023 dated 11.10.2023 in the matter of Appeal No. ST/85867 of 2016 passed by the Hon'ble CESTAT, Mumbai]*
- *M/s Study Overseas Global (P) Ltd. vs. CST, Delhi [Final Order No. ST/A/52503/2017-CU(DB), dated 23.03.2017 in the matter of Appeal No. ST/59602/2013(DB) passed by the Hon'ble CESTAT, New Delhi]*
- *M/s Valmiki Consultants Pvt. Ltd. vs. Commissioner of Customs, Central Tax, Hyderabad [Final Order No. A/31277/2018 dated 05.10.2018 in the matter of Appeal No. ST/30061/2018 passed by the Hon'ble CESTAT, Hyderabad).*

4.1 He further submits that the learned Commissioner (Appeals) did not take cognizance of the decisions passed by the Tribunal in the case of M/s Sunrise Immigration Consultants Private Limited (cited supra), wherein, the identical issue was involved and the CESTAT, Chandigarh, New Delhi, Mumbai & Hyderabad held that the services provided by the assessee does not fall under the category of intermediary services. He further submits that the Commissioner (Appeals) failed to appreciate that the demand of service tax raised

for the period 2012-2013 to 30.09.2014 is not sustainable as the Place of Provision of Services Rules, 2012 was amended vide Notification No. 14/2014-ST dated 11.07.2014 effective dated 01.10.2014 wherein, clause (f) was substituted under Rule 2 and the same is reproduced herein below:

*"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;'*

4.2 He further submits that the aforesaid amendment is prospective as the effective date has been mentioned in the Notification itself and therefore, the demand of service tax raised for the period prior to 1.10.2014 is not tenable in the accordance with law and accordingly the same should be dropped.

4.3 As far as limitation is concerned, the learned Commissioner submits that the demand has been confirmed by invoking the extended period of limitation under Section 73(1) of the Finance Act 1994 for the period 01.04.2012 to 31.03.2016 which is time barred. He further submits that the Joint Commissioner has grossly erred in not giving due cognizance to a letter dated 10.10.2012 addressed to the Superintendent, Service Tax Range-I, C.R. Building, Plot No. 19, Sector 17-C, Chandigarh duly intimated with regard to their activity undertaken by them and accordingly sought clarification with regard to the levy of service tax. Learned counsel refer to the contents of the

letter written by the appellant seeking clarification with regard to the applicability of the service tax against the activity carried on by him. He further submits that it was very well within the knowledge of the Department regarding the service rendered by the appellant and therefore, alleging suppression with intent to evade payment of service tax is not sustainable. For this submission, he relied upon the following judgments:

- *M/s Kushal Fertilisers (P) Ltd. Vs. Commissioner of Cus. & C. Ex., Meerut [2009 (238) ELT 21 (S.C.)]*
- *Collector Vs. J.K. Synthetics Ltd. – [1991 (53) E.L.T. A29]*
- *Commissioner of C.Ex. Vadodara Vs. Pioneer Scientific Glass Works [2006(197) E.L.T. 308 (S.C.)]*
- *Commissioner of C.Ex., Tamil Nadu Vs. Southern Structurals Ltd. [2008 (229) E.L.T. 487 (S.C.)]*

4.4 He further submits that the appellant was under a bona fide belief regarding the non-taxability of the service provided by him and that is why he sought the clarification from the department which was never given to him; there cannot be any suppression of facts on the part of the appellant. For this submission, he relied upon the following judgments:

- *M/s Collector of Central Excise Vs. Chemphar Drugs Liniments [1989 (40) E.L.T. 276 (S.C.)]*
- *Commissioner of Central Excise, Jalandhar Vs. Royal Enterprises [2016 (337) E.L.T. 482 (S.C.)]*

- *Nestle India Ltd. Vs. Commissioner of Central Excise, Chandigarh [2009 (235) E.L.T. 577 (S.C.)]*
- *Continental Foundation Jt. Venture Vs. Commissioner of C.Ex. Chandigarh-I [2007 (216) E.L.T. (S.C.)]*

4.5 As regards the interest and penalty, the learned counsel submits that when the demand itself is not sustainable, the question of interest and penalty does not arise.

5. On the other hand, learned authorized representative for the Department reiterated the findings of the impugned order.

6. We have considered the submissions made by both the parties and perused the material on record, we find that the only issue to be decided is whether the services rendered by the appellant to foreign universities and getting the commission from the foreign universities is liable to pay service tax under intermediary service for it amount to export of service. This vary issue has been considered by various Benches of the Tribunal and it has been consistently held by the Tribunal in the various judgments relied upon by the appellant (cited supra), wherein it has been held that the services provided by the appellant is in fact not intermediary service but it amounts to export of service and demand has been set aside in all the cases. In this regard, we may refer to the decision of this Tribunal in the case of ***M/s Pioneer Immigration And Education Consultancy Private Limited vs. Commissioner of Central Excise and Central Goods & Service Tax, vide its Final Order No. 60522/2024 dated 10.09.2024 in ST/6048/2023***, the Tribunal considered the identical issue and after considering the various judgments relied upon by the appellant has held as under:

6. After considering the submissions made by both the parties and perusal of the material on record, we find that the Adjudicating Authority vacated the demand of service tax on the Appellant by relying upon the decision of the Tribunal in the case of **M/s Sunrise Immigration Consultants Private Limited vs. CCE & ST, Chandigarh in Appeal No. ST/52205/2015 decided vide Final Order No. 62221/2018 dated 16.03.2018** and has held that the services rendered by the Appellant do not fall in the definition of 'Intermediary Service' as defined under Rule 2(f) of the Place of Provision of Service Rules, 2012.

7. We also find that the learned Commissioner (Appeals) though admits on merit that the case of the Appellant is covered by the decision of the Tribunal in the case of **M/s Sunrise Immigration Consultants Private Limited** (cited supra), but still remanded back the matter to the Adjudicating Authority to await the outcome of the decision of the Hon'ble Apex Court in the case of **M/s Microsoft Corporation (I) Pvt Ltd**. Once the learned Commissioner (Appeals) has himself given the findings that issue is in favour of the Appellant and the same is not challenged by the department, then there is no justification for remanding the matter back to the Adjudicating Authority to await the outcome of the decision of the Hon'ble Apex Court in the case of **M/s Microsoft Corporation (I) Pvt Ltd**.

8. We also find that since the issue involved in the present case has already been decided in favour of the Appellant by the Tribunal in the case of **M/s Sunrise Immigration Consultants Private Limited vs. CCE & ST, Chandigarh in Appeal No. ST/52205/2015 decided vide Final Order No. 62221/2018 dated 16.03.2018** holding that the services provided by the Appellant amount to 'Export of Services' and not 'Intermediary Services'. The said decision of the Tribunal was appealed by the Revenue before the Hon'ble High Court but later on the appeal was withdrawn on monetary limit under CBIC instructions dated 22.08.2019. Here, it is pertinent to reproduce the relevant findings of the Tribunal in the case of **M/s Sunrise Immigration Consultants Private Limited** (cited supra), which are reproduced herein below:

**"7.** The appellant is only disputed their liability on referral service post 01.07.2012 and submits that the appellant is not intermediary, therefore, they are not liable to pay service tax post 01.07.2012.

**8.** In these set of facts, following issues emerges:

(A) Whether the appellant is intermediary in terms of Rule 2(f) of POPS Rules, 2012 or not?

(B) Whether the referral service in question rendered by the appellant amount to export of service or not?

(C) Whether the extended period of limitation is invocable or not?

**9.** For better appreciation, the definition of intermediary has been defined under Rule 2(f) of POPS Rules, 2012 which is reproduced here as under:

*"Intermediary means a broker, an agent or any other person, by whatever name called, who arranges or facilitates a provisions 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."*

**10.** We find that the appellant is nowhere providing services between two or more persons. In fact, the appellant is providing services to their clients namely banks/colleges/university who are paying commission/fees to the appellant. The appellant is only facilitating the aspirant student and introduced them to the college and if these students gets admission to the college, the appellant gets certain commission which is in nature of promoting the business of the college and for referring investors borrow loan from foreign based bank to the people who wishes settled in Canada on that if the deal matures, the appellant is getting certain commission. So the nature of service provided by the appellant is the promotion of business of their client, in terms, he gets commission which is covered under Business Auxiliary Service which is not the main service provided by the main service providers namely banks/university. As the appellant did not arrange or facilitate main service i.e. education or loan rendered by colleges/banks.

**11.** In that circumstances, the appellant cannot be called as intermediary in the light of the judgment issued by the Advanced Ruling Authority in the case of Universal Services India Pvt. Ltd. reported in 2016 (42) STR 585 (AAR) and Godaddy India Web Services Pvt. Ltd. reported in 2016 (46) STR 806 (AAR) wherein it has been observed as under:

*"10. The definition of "intermediary" as envisaged under Rule 2(f) of POS does not include a person who provides the main service on his own account. In the present case, applicant is providing main service, i.e. "business Support Service" to WWD US and on his account. Therefore, applicant is not an "intermediary" and the service provided by him is not intermediary service. Further, during arguments, applicant drew our attention to one of the illustration given under paragraph 5.9.6 of the Education Guide, 2012 issued by C.B.E. & C. Relevant is extracted as under; Similarly,*

*persons such as call centers, who provide services to their clients by dealing with the customers of the client on the client's behalf, but actually provided these services on their own account', will not be categorized as intermediaries. Applicant relying on above paragraph submitted that call centres, by dealing with customers of their clients, on client's behalf, are providing service to their client on their own account. Similarly, applicant is providing business support service such as marketing and other allied services like oversight of quality of third party customer care centre operated in India and payment processing services, on behalf of GoDaddy US. Therefore, these services provided by the applicant to GoDaddy US cannot be categorized as intermediary or services, as intermediary service."*

**12.** *We further take note of the fact that the provisions of Rule 6A of the POPS Rules, 2012 has been declared ultra virus by the Hon'ble High Court of Delhi in the case of Association of Tour Operators (Supra). In that circumstance, also the appellant is not liable to pay services for referral service, therefore, the issue no. 1 is answered in favour of the appellant.*

**Issue No. B:** *Whether the referral services in question rendered by the appellant amount to export of service or not?*

**13.** *As discussed hereinabove in the proceedings paragraphs that the appellant is not an intermediary and the appellant is providing Business Auxiliary Service to their clients, who are located outside India, therefore, the services rendered by the appellant duly qualified as export of service in terms of Rule 3 of POPS Rules, 2012. Therefore, the issue no. 2 is also answered in favour of the appellant.*

**14.** *As in this case issue relates to the interpretation of the POPS Rules, 2012, therefore, the extended period of limitation is not invocable. Consequently, the demands pertain to extended period of limitation was also not sustainable.*

**15.** *In view of the above analysis, we hold that demands against the appellant are not sustainable with regard to the referral service, therefore, the impugned order is modified as under:*

*(A) The appellant is liable to pay service tax on visa facilitation service post 01.07.2012*

*(B) The appellant is not liable to pay service tax on referral services.*

*(C) No penalty is imposable on the appellant in the facts and circumstances of the case. In these terms, the appeal is disposed off.”*

9. We also find that recently this Tribunal in the case of ***M/s Sunrise Immigration Consultants Private Limited vs. CCE & CGST, Chandigarh in Appeal Nos. ST/60241-60242/2022*** for the subsequent period vide ***Final Order Nos. 60512-60513/2024 dated 06.09.2024*** has considered the identical issue involved in the present case and after considering the definition of 'Intermediary Services' as provided under Rule 2(f) of the Place of Provision of Service Rules, 2012 has held that the services provided by the Appellant/Assessee to foreign universities qualify as 'Export of Services' and cannot be treated as 'Intermediary Services' as held in the following cases:

- ***M/s Medway Educational Consultant P. Ltd. vs. Commissioner of CGST, Delhi West - 2024 (3) TMI 1178 CESTAT New Delhi***
- ***M/s Krishna Consultancy vs. Commissioner of CGST, Nagpur – 2023 (10) TMI 503 CESTAT Mumbai***
- ***M/s Study Overseas Global (P) Ltd. vs. CST, Delhi – 2017 (5) TMI 887 CESTAT New Delhi***
- ***M/s Valmiki Consultants Pvt. Ltd. vs. Commissioner of Customs, Central Tax, Hyderabad – 2018 (11) TMI 1085 CESTAT Hyderabad***

7. Since the issue involved in the present case is stand settled by various decisions and by following the ratio of the said decision, we are of the considered view that the impugned order is not sustainable

in law and therefore, the same is set aside by allowing the appeals of the appellant. Since, the demand is set aside on merits, we are not inclined to give the findings on other issues. Accordingly, both the appeals are allowed with consequential relief, if any, as per law.

(Order pronounced in the open court on 03.02.2026)

**(S. S. GARG)**  
**MEMBER (JUDICIAL)**

**(P. ANJANI KUMAR)**  
**MEMBER (TECHNICAL)**

Kailash