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W.P.Nos.11038, 27092 & 24261
of 2022 and 5967 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 17.08.2023	Pronounced on: 12.10.2023
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CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.11038, 27092 & 24261 of 2022 and 5967 of 2023
and

W.M.P.Nos.10636, 23250, 26306 & 26307 of 2022 and 5973
& 5974 of 2023

W.P.No.11038 of 2022:

M/s. Sree Ramu College of Arts and Science,
(Affiliated to Bharathiar University),
Represented by its Secretary R.Nithyanandam,
Aliyar Road, N.M.Sungam,
Vedasendur (PO),
Pollachi – 642 007.

.. Petitioner

Vs.

1.Authority for Clarification and Advance Ruling, Tamilnadu,
Door No.32,
Integrated Commercial Taxes Office Complex,
5th Floor, Room No.503,
Elephant Gate Bridge Road,
Chennai – 600 002.

2.The Commissioner of Central Tax & GST,
GST Bhavan,
6/7, ATD Street,
Race Course Road,
Coimbatore – 641 018.



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3.The Assistant Commissioner,
Velandi Palayam Assessment Circle,
Commercial Taxes Annex Buildings,
Dr.Baladundaram Chettiar Road,
Coimbatore – 641 018.

4.Bharathiar University,
Marudhamalai Road,
Coimbatore – 641 046.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India,
to issue a Writ of Certiorari, calling for the records on the file of the 1st
respondent herein in Order No.37/ARA/2020 dated 19.11.2020 and
quash the same as illegal and contrary to Entry 66(b)(iv) of Notification
No.12/2017 dated 28.06.2017, read with Entry 66(b)(iv) of
G.O.Ms.No.73 dated 29.06.2017.

For Petitioner	: Mr.N.Prasad
For RR 1 & 3	: Mr.Haja Nazirudeen Additional Advocate General – I, for Mr.M.Venkateswaran Special Government Pleader Assisted by Mr.P.Haribabu Government Advocate
For R2	: Mr.V.Sundareswaran Senior Panel Counsel
For R4	: Mr.K.Shakespeare



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W.P.No.27092 of 2022:

The Tamil Nadu Dr.MGR Medical University,
Represented by its Registrar,
No.69, Anna Salai, Guindy,
Chennai – 600 032.

.. Petitioner

Vs.

Joint Commissioner,
Office of the Commissioner of GST & Central Excise,
MHU Complex, 5th Floor,
No.692, Anna Salai, Nandanam,
Chennai – 600 035.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to file C.No.V/15/87/2022-CS-Adj in Show Cause Notice No.04/2022-GST(JC) dated 28.06.2022 issued by the respondent and quash the same as arbitrary and illegal.

For Petitioner : Mr.Joseph Prabakar

For Respondent : Mrs.R.Hemalatha
Senior Standing Counsel

W.P.No.24261 of 2022:

Pondicherry University,
Represented by its Registrar (in charge),
No.14, East Coast Road,
R.V.Nagar, Kalapet,
Puducherry – 605 014.

.. Petitioner

Vs.



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The Assistant Commissioner GST & Central Excise,
Puducherry Division III,
No.14, Municipal Street,
Reddiarpalayam,
Puducherry – 605 010.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to file C.No.ADJ/GST/14/2021-CGST-DIV-III-COMMRTE-PUDUCHERRY in Order in Original No.01/2022 (GST) dated 05.05.2022 passed by the respondent and the quash the same as arbitrary and illegal.

For Petitioner : Mr.Joseph Prabakar

For Respondent : Mrs.Hema Muralikrishnan
Senior Standing Counsel

W.P.No.5967 of 2023:

M/s.Textcity Arts and Science College,
(Affiliated to Bharathiar University),
Represented by its Secretary, A.M.M.Khaleel),
Palathurai Road,
Madukkarai Market,
Coimbatore – 641 105.

.. Petitioner

Vs.

1.Authority for Clarification and Advance Ruling, Tamilnadu,
Door No.32, Integrated Commercial Taxes Office Complex,
5th Floor, Room No.503, Elephant Gate Bridge Road,
Chennai – 600 002.

2.The Commissioner of Central Tax & GST,
GST Bhavan,
6/7, ATD Street,



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Race Course Road,
Coimbatore – 641 018.

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3.The Assistant Commissioner,
Velandi Palayam Assessment Circle,
Commercial Taxes Annex Buildings,
Dr.Baladundaram Chettiar Road,
Coimbatore – 641 018.

4.Bharathiar University,
Marudhamalai Road,
Coimbatore – 641 046.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the 1st respondent herein in Order No.37/ARA/2020 dated 19.11.2020 and quash the same as illegal and contrary to Entry 66(b)(iv) of Notification No.12/2017 dated 28.06.2017, read with Entry 66(b)(iv) of G.O.Ms.No.73 dated 29.06.2017.

For Petitioner	: Mr.N.Prasad
For RR 1 & 3	: Mr.Haja Nazirudeen Additional Advocate General – I, for Mr.M.Venkateswaran Special Government Pleader Assisted by Mr.P.Haribabu Government Advocate
For R2	: Mr.Sai Srujan Tayi Senior Panel Counsel
For R4	: Mr.K.Shakespeare



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COMMON ORDER

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2.The petitioners in W.P.Nos.11038 of 2022 & 5967 of 2023 are two colleges affiliated to Bharathiyar University, Coimbatore. These petitioners have challenged the impugned order dated 19.11.2020 passed by the first respondent the Authority for Clarification and Advance Ruling(ACAR) under Section 97 of CGST Act, 2017 r/w analogues provisions of the TNGST Act, 2017.

3.The petitioners in W.P.Nos.27092 & 24261 of 2022 are two Universities who have challenged the Show Cause Notice No.04/2022-GST(JC) dated 28.06.2022 and Order in Original No.01/2022 (GST) dated 05.05.2022 respectively.

4.The impugned ruling dated 19.11.2020 of the 1st respondent Authority for Clarification and Advance Ruling (ACAR) is challenged in W.P.Nos.11038 of 2022 & 5967 of 2023. The impugned ruling was obtained by Bharathiyar University under Section 97 of CGST Act, 2017



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r/w analogues provisions of the TNGST Act, 2017, from the 1st
respondent Authority for Clarification and Advance Ruling (ACAR).

5.By the impugned order dated 19.11.2020, the first
respondent, Authority for Clarification and Advance Ruling Authority
(ACAR), has concluded as follows:-

“In view of the foregoing discussions, we rule as
under:-

Ruling

*The composite supply of sale of application,
registration of course, inspection, etc with the
‘Principal Supply of “affiliation” provided by the
Bharathiar University to its constituent colleges
(viz) Self-financing and management colleges for
which they collect*

1. *Application Form fees;*
2. *Application Fees (Application* registration fee
(each/course/section));*
3. *Inspection fees(each course/Section);*
4. *Affiliation Fee for each course;*
5. *Affiliation Fee for each additional section;*
6. *Initial Affiliation fee to start an institution;*
7. *Permanent Affiliation fee to the College;*
8. *Continuation of affiliation for each course;*
9. *Increase in intake for each course for permanent
basis processing fee &*



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10. Penal fee for receipt of late application is not exempted vide Sl.No.66 of Notification No.12/2017-C.T.(Rate) dated 28th June 2017 as amended by 02/2018-C.T.(Rate) dated 25.01.2018 for the reasons stated in para 7 above.”

6.Bharathiyar University has not challenged the above ruling of Authority for Clarification and Advance Ruling (ACAR) by itself. Bharathiyar University had earlier filed an application before the first respondent Authority for Clarification and Advance Ruling (ACAR) and had asked for a clarification as to whether the services provided by it to its constituent colleges such as the petitioners viz., self-financing and Management Colleges, the petitioners in W.P.Nos.11038 of 2022 & 5967 of 2023 were exempted from GST vide Entry 66 of Notification No.12/2017-CT (Rate) dated 28.06.2017.

7.Almost, an identical issue arose for consideration in W.P.No.15333 of 2020 for the petitioner in W.P.No.24261 of 2022. There Pondicherry University had suffered an adverse order in the hands of the “Central Excise Officer” vide Order-in-Original No.27/2019 (ST) dated 29.10.2019.



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8.By the aforesaid Order-in-Original No.27/2019 (ST) dated 29.10.2019, the demand proposed in the show cause notice that preceded it was confirmed under Finance Act, 1994. The demand that was confirmed in Order-in-Original No.27/2019 (ST) dated 29.10.2019 was on the same activity undertaken by the Pondicherry University in connection with affiliation of colleges to it. By a separate order, which has been passed today, W.P.No.15333 of 2020 was dismissed with liberty to file a statutory appeal before the Appellate Authority.

9.The challenge to the impugned Show Cause Notice No.04/2022-GST(JC) dated 28.06.2022 issued by the respondent in W.P.No.27092 of 2022 is pre-mature and is therefore liable to be dismissed. It is not open for the petitioner to argue that the respondent in W.P.No.27092 of 2022 has no jurisdiction to issue the above Show Cause Notice on the ground that the petitioner is entitled to exemption under Notification No.12/2017-CT (Rate) dated 28.06.2017. It has to be examined by the respondent therein assuming the petitioner is entitled to such exemption under Notification No.12/2017-CT (Rate) dated 28.06.2017.



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10. On the same principle, the challenge to Order in Original No.01/2022 (GST) dated 05.05.2022 bearing reference C.No.ADJ/GST/14/2021-CGST-DIV-III-COMMRTE-PUDUCHERRY impugned in W.P.No.24261 of 2022 filed by the Pondicherry University is liable to be dismissed on account of alternate remedy. The petitioner can file a statutory appeal before the Appellate Authority under Section 107 of the GST Act, 2017, if the petitioner so wishes to challenge the same.

11. That apart, the decision relied upon by the petitioners in all these cases are on the strength of the orders passed by this Court earlier in **Madurai Kamaraj University vs. Joint Commissioner, O/o, the Commissioner of GST & Central Excise, Madurai**, (2021) 94 GSTR 192 and **Madurai Kamaraj University Vs. Joint Commissioner, Office of the Commissioner of GST and Central Excise, Madurai**, 2021-VIL-639-MAD-ST. The decision in W.P.(MD).No.20502 of 2019 has not been accepted by the Department and the Department is in appeal.

12. This Court in W.P.No.15333 of 2020 has also taken a view that



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Mega Exemption Notification No.25/2012-ST dated 20.06.2012 with effect from 01.07.2012 as amended by Notification No.6/2014-ST dated 11.07.2014 and Notification No.9/2016-ST dated 01.03.2016 and Section 66 D(l) of the Finance Act, 1994 was not applicable to the petitioner in W.P.No.15333 of 2020 for the service relating either renting of immovable property and for the amounts charged by the Pondicherry University on the colleges for inspection of colleges for evaluation of colleges in connection with affiliation and renewal of affiliation of the colleges.

13. Therefore, liberty is given to the petitioner in W.P.No.27092 of 2022 to file appropriate reply to the impugned Show Cause Notice No.04/2022-GST(JC) dated 28.06.2022. Such reply may be filed within a period of 30 days of receipt of this order. Similarly, liberty is given to the petitioner in W.P.No.24261 of 2022 to file an appeal before the Appellate Authority under Section 107 of the GST Act, 2017 against impugned Order in Original No.01/2022 (GST) dated 05.05.2022. Such appeal shall be filed within 30 days of receipt of this order.

14. The petitioners in W.P.No.11038 of 2022 & W.P.No.5967 of



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2023 have filed these writ petitioners on the strength of the decision of the Hon'ble Supreme Court in **I.D.L. Chemicals Ltd., vs. Union of India and Others**, (1996) 5 SCC 373.

15.It is submitted that the petitioners bear the incidence of tax levied on 4th respondent. The petitioners do not have statutory remedy against the impugned order of the 1st respondent dated 19.11.2020. Hence, as persons bearing the tax, the petitioners have *locus standi* to file the present Writ Petition.

16.The Hon'ble Supreme Court followed its earlier views in **G.M., Central Bank of India v. Commr., Municipal Corpn. for the City of Ahmedabad**, [(1995) 4 SCC 696]. In **G.M., Central Bank of India v. Commr., Municipal Corpn. for the City of Ahmedabad** [(1995) 4 SCC 696], the Hon'ble Supreme Court had held that even a tenant, who has to bear incidence of tax can file a writ petition challenging the assessment against the Land Lord. In **I.D.L. Chemicals Ltd., Vs. Union of India and Others**, (1996) 5 SCC 373, the Hon'ble Supreme Court held as under:-

“11. Our attention was drawn by Mr Salve to the judgment of this Court in Asstt. G.M., Central Bank



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of India v. Commr., Municipal Corpn. for the City of Ahmedabad [(1995) 4 SCC 696]. This Court held that a tenant is entitled to impugn in an appeal an increase in property tax because, under the relevant statute, the burden of such increase may be passed by the landlord to the tenant and also because there was, in the case with which it was concerned, an agreement between the landlord and the tenant whereunder the obligation to discharge and pay the property tax was cast upon the tenant. Mr Salve submitted that the principle of the judgment would apply to the case before us.

- 12. Mr. Vellapally, learned counsel for the respondent-Union of India, very fairly and rightly, did not dispute that the burden of the increase in excise duty, by reason of the reclassification of the said ammonium nitrate, would fall upon the appellants, and that, therefore, the appellants were entitled to agitate the validity of such reclassification and this could not be done in the civil suit that was contemplated by the High Court.*
- 13. There is, in our view, no doubt that the reclassification of ammonium nitrate by the order of the Central Board dated November 1980, casts upon the appellants the obligation to pay the excise duty that is leviable as a result. Such obligation does not arise merely by reason of an agreement between SAIL and the appellants but also by virtue of the provisions of Chapter X of the Central Excise Rules, 1944. The appellants suffer adverse civil consequences and have, therefore, the locus to challenge the reclassification. There is no forum other than the High Court under Article 226 where they can do so, and the High Court was in error in not entertaining the later writ petition (No. 183 of 1981) and referring the appellants to a civil suit. Insofar as the earlier writ petition (No. 86 of 1980) is concerned, the High Court ought, for the same reason, to have dealt with the*



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contention of the appellants that ammonium nitrate remained exempt from excise duty by reason of the exemption notification until 21-7-1979, when ammonium nitrate was removed from the purview thereof.

14. Upon the basis set out above, the judgments and orders of the High Court in appeal must be set aside, except insofar as the one judgment and order deals with the constitutionality of Notification No. 225 of 1979 dated 21-7-1979. Both writ petitions (Nos. 183 of 1981 and 86 of 1980) shall stand restored to the file of the High Court for being considered on merits, Writ Petition No. 183 of 1981 in its entirety and Writ Petition No. 86 of 1980 insofar as it contends that ammonium nitrate remained exempt from excise duty until 21-7-1979 and seeks relief consequential thereon."

17. Therefore, in the light of the above decisions, W.P.No.11038 of 2022 and W.P.No.5967 of 2023 are maintainable. However, there is no merits in these two Writ Petitions. These Writ Petitions are also liable to be dismissed. I shall refer to the submissions of these petitioners and give the reasons as to why these Writ Petitions are liable to be dismissed.

18. The learned counsel for the petitioners in W.P.No.11038 of 2022 & W.P.No.5967 of 2023 would submit that the petitioners are entitled for exemption under Entry 66 of Notification No.12/2017-CT(Rate) dated 28.06.2017 as amended by Notification No.2/2018-



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CT(Rate) dated 25.01.2018.

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19.He further submitted that the amendment to Notification No.12/2017-CT(Rate) dated 28.06.2017 by Notification No.2/2018-CT(Rate) dated 25.01.2018 did not affect the right of exemption. On the contrary it clarified that the existing exemption was continued and has not been disturbed.

20.It is submitted that by Notification No.2/2018-CT(Rate) dated 25.01.2018, Notification No.12/2017-CT(Rate) dated 28.06.2017 was amended and the following changes were brought:-

- (a) the applicability of the exemption available under sub item (iv) in item (b) was extended to colleges;
- (b) there was an additional grant of exemption by introduction of sub item (v) to item (b);
- (c) the disqualification from the exemption contemplated under sub clause (b) was confined to services contemplated by sub clause (i), (ii) and (iii). This did not affect the grant of exemption under sub clause (iv).
- (d) an additional disqualification was introduced in respect of services under sub item (v) of item (b) to institutions providing services by way of pre-school education and education up to higher secondary school or equivalent or education as a part of an approved vocational education course. There was



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no disqualification in respect of sub item (iv) in this paragraph.

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21.It is submitted that the determination of applicability of exemption will depend on the language of exemption under Section 11, which is relevant and not the test conceived by Section 8 of the Central Goods and Services Act, 2017.

22.It is submitted that Notification No.12/2017-CT(Rate) dated 28.06.2017 as amended by Notification No.2/2018-CT(Rate) dated 25.01.2018 exempts services relating to admission or to conduct of examination. This activity in relation to admission will include affiliation, because without affiliation there can be no admission or examination.

23.It is further submitted that power under Section 11 to exempt is not solely guided by the Fitment Committee. The two fold parameters are recommendation of the council and public interest. The public interest is to be protected based on the language employed by the Government while exercising power under Section 11.

24.The case of the petitioners is that the petitioners are educational institutions and therefore services provided to them by Bharatiyar



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University while granting and over viewing affiliation were exempted from payment of Goods and Services Tax under the respective GST enactments.

25.It is submitted that the order of the 1st respondent itself has been passed in the case of the 4th respondent University and therefore, the original of the proceeding is lying with the 4th respondent University and not addressed to the petitioners in W.P.No.11038 of 2022 and W.P.No.5967 of 2023.

26.It is the submitted that the petitioners as persons impacted by the Advance Ruling Order dated 19.11.2020, have filed W.P.No.11038 of 2022 and W.P.No.5967 of 2023.

27.It is submitted that the impugned order dated 19.11.2020 of the 1st respondent is contrary to Entry 66(b)(iv) of Notification No.12/2017 dated 28.06.2017, read with corresponding Entry in G.O.Ms.No.73 dated 29.06.2017.

28.It is submitted that the 1st respondent ought to have seen the



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expression “in relation to” found under Entry 66(b)(iv) of Notification No.12/2017 dated 28.06.2017 was an expression of wide import and referred to a subject matter for a service rendered by the Educational Institution to its students for examination or admission.

29.It is submitted that the 1st respondent ought to have construed the language of Entry 66(b)(iv) of Notification No.12/2017 dated 28.06.2017 on the basis of the plain language of the entry which was unambiguous and clear.

30.It is submitted that the 1st respondent having held that the service provided to the petitioners was a composite supply, ought to have extended the benefit of Entry 66(b)(iv) of Notification No.12/2017 dated 28.06.2017 and corresponding Entry in G.O.Ms.No.73 dated 29.06.2017.

31.It is submitted that Entry 66(b)(iv) of Notification No.12/2017 dated 28.06.2017 and corresponding Entry in G.O.Ms.No.73 dated 29.06.2017 extended the exemption to an activity on which the specified activity depend and therefore, an activity in relation to admission and



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examination was exempted.

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32. In support of the present writ petitions, the respective petitioners have also placed reliance on the following decisions of this

Court and Hon'ble Supreme Court:-

- (i) **Madurai Kamaraj University vs. Joint Commissioner, O/o, the Commissioner of GST & Central Excise, Madurai, (2021) 94 GSTR 192;**
- (ii) **Manonmaniam Sundaranar University vs. The Joint Director (GST Intelligence), Coimbatore reported in 2021-VIL-635-MAD-ST.**
- (iii) **M/s. Rajiv Gandhi University of Health Sciences vs. Principal Additional Director General Directorate General of GST Intelligence Bengaluru, 2022(8) TMI 707;**
- (iv) **Bangalore University Jnanabharathi Campus vs. Principal, Additional Director General Directorate of GST Intelligence Bengaluru, 2022 (8) TMI 167;**
- (v) **Doypack Systems Pvt.Ltd vs. Union of India and Others, 1988(2)SCC 299;**
- (vi) **T.K.Kalayana Mandapam Association vs. Union of India and Others, 2004(5)SCC 632;**
- (vii) **Hansraj Gordhands vs. H.H.Dave, AIR 1970 SC 755;**
- (viii) **Government of Kerala vs. Mother Superior Adoration Convent, 2021(5)SCC 632;**
- (ix) **Union of India vs. Mohit Minerals, 2022(10) SCC 700;**
- (x) **CIT vs. Sun Engineering Works, 1992(4) SCC 363;**



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- (xi) **All India Federation of Tax Practitioner vs. Union of India**, 2007(7) SCC 527;
- (xii) **IDL Chemicals Ltd vs. Union of India** , 1996(5) SCC 373;
- (xiii) **Indian Explosive Ltd., vs. Commissioner, Sales Tax**, 1978(41) STC 315;
- (xiv) **Delhi Rohats Light Railway Company Limited vs. District Board, Bhojpur& Others**, 1992(2) SCC 598;
- (xv) **Sagufa Ahmed and Others vs. Upper Assam Polywood Products**, 2021(2) SCC 317;
- (xvi) **Prakash Corporates vs. Dee Vee Projects Ltd.**;
- (xvii) **VG Paper and Boards Ltd. vs. The Government of Tamilnadu**, W.P.No.36170 of 2007 and
- (xviii) **Commissioner of Customs & Central Excise vs. Kannapiran Steel Re-Rolling Mills**, 2010(15)SCC 161.

33.The learned Special Government Pleader for the respondents 1 & 3 submits that the definition of affiliation – under Regulation 2.1 of Bharathiyar University – in relation to a college, is an activity to recognize such college to the privileges of the University to which the institution is affiliated.

34.It is submitted that the petitioners in W.P.No.11038 of 2022 & W.P.No.5967 of 2023 are private educational institutions which have



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been affiliated to Bharathiar University, though whom the petitioners derived their rights by way of affiliation.

35.It is submitted that the composite supply of sale of applications for registration of course, inspection, etc., with the “principal supply of affiliation” provided by Bharathiar University to its constituent colleges, viz., self financing and management colleges for which they collect application form fee, application fees, application registration fee for each course, inspection fee for each course, affiliation fee for each course, affiliation fee for each additional section, initial affiliation fee to start an Institution, continuation of affiliation for each course, etc., as well as increase in intake for each course, permanent affiliation fee to the colleges, penal fee for receipt of late applications, etc., are not exempted in terms of Entry No.66 of Notification No.12/2017 – CT (Rate) dated 28.06.2017, as amended by Notification No.02/2018 – CT (Rate) dated 25.01.2018.

36.It is submitted that sub-items (i), (ii) & (iii) of item (b) substituted by way of amendment by Notification No.02/2018 – CT (Rate) dated 25.01.2018 are applicable to an educational institution in



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exclusion of institutions providing services by way of pre-school education and education up to higher secondary school or equivalent. To that effect, corresponding G.O.Ms.No.13 CT & R (B) Department dated 25.01.2018 has been issued by the Government of Tamil Nadu.

37.It is submitted that the 4th respondent Bharathiar University has approached the 1st respondent invoking Section 98 of the TNGST Act, 2017 and obtained an order from the 1st respondent. The petitioners being affiliated to the 4th respondent and running the Institution, have derived right only from the 4th respondent. The 4th respondent has not preferred any appeal against the order of the 1st respondent under Section 100 of the TNGST Act, 2017.

38.In other words, the activity of affiliation is to monitor whether the institution possesses the required infrastructures in terms of space, technical prowess, financial liquidity, faculty strength, well equipped laboratory etc., and thereby eligible for the privileges to conduct the course/programme of study for the degree/title extended by the University to the students enrolled in such institutions.



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39.It is submitted that the composite supply of sale of application, registration, inspection etc. with affiliation of the said University/course as the 'principal supply' are not exempted under Entry 66 of Notification No.12/2017-CT(Rate) dated 28.06.2017 as amended by 2/2018 of TNGST Act, 2017 in G.O.Ms.No.13 CT & R (B) Department dated 25.01.2018. Therefore, this writ petition is liable to be dismissed.

40.By way of rejoinder, the petitioner in W.P.No.11038 of 2022 & W.P.No.5967 of 2023 would submit that the submissions in paragraph Nos.1 to 7 of the counter affidavit are false.

41.It is submitted that the amendments brought to Notification No.12/2017-CT (Rate) dated 28.06.2017 by Notification No.2/2018-CT (Rate) dated 25.01.2018 do not in any manner affect the right of exemption but on the contrary only clarify the existing exemption is not disturbed.

42.It is submitted that by Notification No.2/2018-CT (Rate) dated 25.01.2018 which amended Notification No.12/2017-CT(Rate) dated 28.06.2017 has brought the following changes:-



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- (a) the applicability of exemption available under sub item (iv) in item (b) was extended to colleges;
- (b) there was additional grant of exemption by introduction of sub item (v) to item (b);
- (c) disqualification from exemption contemplated under sub clause (b) was confined to services contemplated by sub clause (i), (ii) and (iii). This did not affect the grant of exemption under sub clause (iv).
- (d) additional disqualification was introduced in respect of services falling under sub item (v) of item (b) to institutions providing services by way of pre-school education and education up to higher secondary school or equivalent or education as part of an approved vocational education course. There was no disqualification in respect of sub item (iv).

43.It is submitted that the petitioners bear the incidence of the tax levied on the 4th respondent. The 4th respondent insisted the petitioners reimburse the tax on the various fees and accordingly correspondence is marked before this Court.

44.It is submitted that the petitioners requesting the 4th respondent on 31.03.2022 to file a statutory appeal against the impugned order of the 1st respondent dated 19.11.2020 and the 4th respondent did not do so. The petitioners also do not have statutory remedy against the impugned order



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dated 19.11.2020 of the 1st respondent.

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45.It is submitted that the determination of the applicability of the exemption will depend on the language of the exemption under Section 11, which is relevant and not the test conceived by Section 8 of the Central Goods and Services Act, 2017.

46.It is submitted that the power under Section 11 to exempt is not solely guided by the comments of the Fitment Committee. The two fold parameters are recommendation of the council and public interest. The public interest sought to be protected is on the basis of the language employed by the Government through an exercise of power under Section 11.

47.It is submitted that the any service in relation to admission which will encompass a connected activity of affiliation and prayed for allowing W.P.No.11038 of 2022 and W.P.No.5967 of 2023.

48.I have considered the arguments advanced by the learned counsel for the petitioners and the learned counsel for the respondents. I



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have also considered Notification No.11/2017-Central Tax (Rate) dated 28.06.2017 & Notification No.12/2017-C.T.(Rate) dated 28th June 2017 as amended by 02/2018-C.T.(Rate) dated 25.01.2018 and the provisions of Central Goods & Services Tax Act, 2017 and Tamil Nadu Goods and Services Tax Act, 2017.

49. Section 9 is the charging provision under the respective enactments for levy of Tax under the respective enactments. In the exercise of powers conferred under Section 9 of Central Goods and Services Tax Act, 2017, Notifications have been issued prescribing the rate of tax on supply of service intra state. Section 11 empowers the Government to exempt tax fully and partially.

50. Notification No.11/2017-CT(Rate) dated 28.06.2017 prescribes rate of Central Tax payable on Intra State supply of service. CGST is payable at 9%. A similar Notification has been issued by the State Government as well. Relevant portion of Notification reads as under:-

**“CGST RATES ON INTRA-STATE SUPPLY
OF SERVICES**

[As on 15th July, 2023]



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*[Authority : M.F. (D.R.) Notification No. 11/2017-
C.T. (Rate), dated 28-6-2017 as amended upto date]*

In exercise of the powers conferred by sub-section (1) [, sub-section (3) and sub-section (4)] of section 9, sub-section (1) of section 11, sub-section (5) of section 15 [,] sub-section (1) of section 16 [and section 148] of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby notifies that the central tax, on the intra-State supply of services of description as specified in column (3) of the Table below, falling under Chapter, Section or Heading of scheme of classification of services as specified in column (2), shall be levied at the rate as specified in the corresponding entry in column (4), subject to the conditions as specified in the corresponding entry in column (5) of the said Table :-

TABLE

<i>Sl. No.</i>	<i>Chapter, Section or Heading</i>	<i>Description of Service</i>	<i>Rate (percent.)</i>	<i>Condition</i>
(1)	(2)	(3)	(4)	(5)
1	Chapter 99	All Services		
30	Heading 9992	Education Services	9	

[Notification No. 11/2017-Central Tax (Rate), dated 28-6-2017 as amended by Notifications No. 20/2017-C.T. (Rate), dated 22-8-2017; No. 24/2017-C.T. (Rate), dated 21-9-2017; No. 31/2017-C.T. (Rate), dated 13-10-2017; No. 46/2017-C.T. (Rate), dated 14-11-2017; No. 1/2018-C.T. (Rate), dated 25-1-2018; No. 13/2018-C.T. (Rate), dated 26-7-2018; No. 17/2018-C.T. (Rate), dated 26-7-2018; No. 27/2018-C.T. (Rate), dated 31-12-2018; No. 30/2018-C.T. (Rate), dated 31-12-2018; No. 3/2019-C.T. (Rate), dated 29-3-2019; No. 10/2019-C.T. (Rate), dated 10-5-2019;



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No. 20/2019-C.T. (Rate), dated 30-9-2019; No. 26/2019-C.T. (Rate), dated 22-11-2019; 2/2020-C.T. (Rate), dated 26-3-2020; 2/2021-C.T. (Rate), dated 2-6-2021; 4/2021-C.T. (Rate), dated 14-6-2021; 6/2021-C.T. (Rate), dated 30-9-2021; No. 15/2021-C.T. (Rate), dated 18-11-2021; and 22/2021-C.T. (Rate), dated 31-12-2021; No. 3/2022-C.T. (Rate), dated 13-7-2022 and No. 5/2023-C.T. (Rate), dated 9-5-2023.]”

51.Notification No.12/2017–CT (Rate) dated 28.12.2017 exempts supply of few services from payment of Goods and Service Tax under Central Goods and Services Tax Act, 2017.

52.Entry 66 to Notification No.12/2017-C.T.(Rate) dated 28th June 2017 as amended by 02/2018-C.T.(Rate) dated 25.01.2018 prescribes nil rate of tax on certain categories of supply of service to educational institution.

53.Entry 66 to Notification No.12/2017- Central Tax(Rate) dated 28.06.2017 exempts certain categories of services from tax. Entry 66 to Notification No.12/2017- Central Tax(Rate) dated 28.06.2017 applies to certain categories of services falling under chapter heading 9992 provided “to” and “by” an “**Educational Institutions**”. Relevant portion of Entry



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66 to Notification No.12/2017- Central Tax(Rate) dated 28.06.2017

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“In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub-section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, namely:-

Sl. No.	Chapter, Section or Heading	Description of Service	Rate (percent.)	Condition
66	Heading 9992	Services provided - a)by an educational institution to its students, faculty and staff; b)to an educational institution, by way of - i.transportation of students, faculty and staff; ii.catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;	Nil	Nil



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Sl. No.	Chapter, Section or Heading	Description of Service	Rate (percent.)	Condition
		iii.security or cleaning or housekeeping services performed in such educational institution; iv.services relating to admission to, or conduct of examination by, such institution; up to higher secondary: Provided that nothing contained in entry (b) shall apply to an “educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.		

54.Explanation 3 & 4 to Notification No.12/2017- Central Tax

(Rate) dated 28.06.2017 reads as under:-

“3.Explanation.- For the purposes of this notification,-

- (i) Reference to “Chapter”, “Section” or “Heading”, wherever they occur, unless the context otherwise requires, shall mean respectively as “Chapter”, “Section” and “Heading” in the Scheme of Classification of Services.
- (ii) Chapter, Section, Heading, Group, or Service Code mentioned in Column (2) of the Table are only indicative.”



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4. *This notification shall come into force on the 1st day of July, 2017.*”

55.Entry No.81 corresponds to Heading 9992. Heading 9992 deals with Education Services. Entry No.66 to Notification No.12/2017-Central Tax(Rate) dated 28.06.2017 is some what *pari materia* with Entry No.9 to Notification No.25/2012-ST dated 20.06.2012 as amended by Notification No.6/2014 and Notification No.9/2016-ST dated 01.03.2016 which fell for consideration in W.P.No.15333 of 2020. As mentioned above, in W.P.No.15333 of 2020, the exemption was held not available to Pondicherry University.

56.For the purpose of discussion in these cases, it would suffice to state that there are two categories of exemptions in Entry 66 to Notification No.12/2017 – CT (Rate) dated 28.06.2017. Entry 66 is somewhat similar to Entry 9 to Mega Exemption Notification No.25/2012-ST dated 20.06.2012. Two categories of exemptions in Entry 66 to Notification No.12/2017–CT (Rate) dated 28.06.2017 are namely:-

- “(a)Service provided by an educational institution to its students, faculty and staff as in Entry 66(a); and
- (b)Specified service provided to an educational institutions as in Entry 66(b).”



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57.The expression “Educational Institution” defined in definition

Clause 2(y) to Notification No.12/2017 – CT (Rate) dated 28.06.2017 at
the time of inception read as follows:-

y)“*educational institution*” means an institution
providing 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 for the time being in force;*
- (iii)*education as a part of an
approved vocational education
course;*

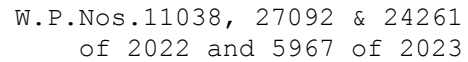
58.The above expression ‘Educational Institution’ as defined in
definition clause 2(y) to Notification No.12/2017–CT (Rate) dated
28.06.2017 was *pari materia* with the definition of ‘Educational
Institution’ in definition clause 2(oa) to Mega Exemption No.25/2012-ST
dated 20.6.2012 as amended by Notification No.9/2016-ST dated
01.03.2016, with effect from 14.05.2016.

59.Entry 9 to Notification No.25/2012 – ST dated 20.06.2012 as it
stood amended and Entry 66 to Notification No.12/2017–CT (Rate) dated
28.06.2017 at the time of inception read as under:-



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Entry 9 to Notification No.25/2012 – ST dated 20.06.2012	Entry 66 to Notification No.12/2017 –CT (Rate) dated 28.06.2017	Remarks
	Heading : 9992	
Services provided – a.by an educational institution to its students, faculty and staff;	Services provided – a.by an educational institution to its students, faculty and staff;	same
b.to an educational institution, by way of – i. Transportation of students, faculty and staff; ii. Catering, including mid-day meals schedule sponsored by the Government; iii. Security or cleaning or house-keeping services performed in such educational institution; iv. Services relating to admission to, or conduct of examination by, such institutions;	b.to an educational institution, by way of – i. Transportation of students, faculty and staff; ii. Catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory ; iii. Security or cleaning or housekeeping services performed in such educational institution; iv. Services relating to admission to, or conduct of examination by, such institution; up to higher secondary.* Provided that nothing contained in entry (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent	Same Minor changes (in Bold) same substantial changes
Definition Clause 2(oa):-	Definition Clause 2(y)	



* Deleted vide Notification No.2/2018.

60.Entry 66(a) to Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 is not relevant for the purpose of this enquiry. The exemption in Entry 66(b)(iv) to Entry 66 to Notification No.12/2017-CT (Rate) dated 28.02.2017 is confined to services relating to admission to, or conduct of examination by, such institution; up to higher secondary.



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61.This proviso was not there in Mega Exemption Notification No.25/2012-ST dated 20.06.2012. Proviso to Entry No.66 (b) (iv) to Notification No.12/2017-CT (Rate) dated 28.02.2017 restricted the exemption to service relating to admission to or conduct of examination by such institution up to “Higher Secondary”. Thus, service provided by Bharathiar University to these petitioner colleges in W.P.No.11038 of 2022 & W.P.No.5967 of 2023 were not in contemplation of the Central Government when Notification No.12/2017-CT (Rate) dated 28.02.2017 was issued.

62.Although the definition of “educational institution” in definition Clause 2(y) to the above notification would have included a college like petitioners in W.P.No.11038 of 2022 & W.P.No.5967 of 2023 who provide education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force, exemption in Entry (b)(iv) to Entry 66 to Notification No.12/2017-CT (Rate) dated 28.02.2017 was confined only to service provided to an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.



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63.Proviso to Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 further makes it abundantly clear that nothing contained in Entry (b) shall apply to an educational institution other than an institution:-

- (i) providing services by way of pre - school education; and**
- (ii) education [up to higher secondary school or equivalent].**

Thus, exemption was applicable only for supply of the services to specified recipient of services alone.

64.Thus, Entry (b)(iv) to Entry 66 to Notification No.12/2017-CT (Rate) dated 28.02.2017 applied only to services to educational institution by way of pre-school education and education up to higher secondary school or its equivalent to an educational institution.

65.Entry (b)(iv) to Entry 66 to Notification No.12/2017-CT (Rate) dated 28.02.2017 do not apply to services provided to colleges, even if such affiliation services were to fall under the category of services relating to admission to, or conduct of examination by, such institution as it is restricted to up to higher secondary.



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66.Thus, to begin with benefit of Entry No.66 (b) (iv) to Notification No.12/2017-Central Tax (Rate), dated 28.06.2017 was confined to services provided to an educational institution providing such educational services by way of pre-school education and education up to higher secondary school or equivalent.

67.Therefore, even on a demur, it cannot be assumed that the benefit of the above Notification No.12/2017-Central Tax (Rate), dated 28.06.2017 was available to the universities towards charges collected for colleges like the petitioner in W.P.No.11038 of 2022 and W.P.No.5967 of 2023 for inspection for their affiliation and / or their renewal of affiliations.

68.Therefore, the decisions relied by the petitioners are not applicable. Further, the reasons in **Madurai Kamaraj University vs. Joint Commissioner, Office of the Commissioner of GST and Central Excise, Madurai, 2021-VIL-639-MAD-ST, W.P.(MD).No.20502 of 2019** and **The Tamil Nadu Dr.MGR Medical University, Chennai vs. The Principal Additional Director General Directorate General Directorate General of Goods and Services Tax, Intelligence,**



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Chennai, 2022-VIL-418-MAD-ST have been differed in view of the reasons in W.P.No.15333 of 2020.

69.Further, the view taken in **Madurai Kamaraj University vs. Joint Commissioner, Office of the Commissioner of GST and Central Excise, Madurai** in W.P.(MD).No.20502 of 2019 reported in 2021-VIL-639-MAD-ST requires a reconsideration as there is no scope for interpretation when the language in the Notification is clear.

70.Entry No.66 to Notification No.12/2017-CT (Rate) dated 28.02.2017 was later amended by Notification No.2/2018-CT (Rate) dated 25.08.2018. Relevant portion of Notification No.2/2018-CT (Rate) dated 25.08.2018 which amended Entry No.66 to Notification No.12/2017-CT (Rate) dated 28.02.2017 reads as under:-

- “o) against serial number 66, in the entry in column (3), -*
(i)after item (a), the following item shall be inserted, namely :-
“(aa)by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;”
(ii)in item (b),-
(A) in sub-item (iv), the words “upto higher



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secondary” shall be omitted;

(B)after sub-item (iv), the following sub-item shall be inserted, namely :-

“(v) supply of online educational journals or periodicals:”;

(C)in the proviso, for the word, brackets and letter “entry (b)”, the words, brackets and letters “sub-items (i), (ii) and (iii) of item (b)” shall be substituted;

(D)after the proviso, the following proviso shall be inserted, namely :-

“Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of,-

i) pre-school education and education upto school or equivalent or

ii) education as a part of an approved vocational education course.”

71.By Notification No.2/2018-CT (Rate) dated 25.01.2018, expression “**upto Higher Secondary**” was deleted from Entry (b)(iv) to Entry 66 to Notification No.12/2017-CT (Rate) dated 28.02.2017.

72.Entry 66 to Notification No.12/2017-CT (Rate) dated 28.02.2017 as it stood at its inception prior to amendment and after amendment vide Notification No.2/2018-CT (Rate) dated 25.08.2018 is tabulated below in the following table for convenience and comparison:-



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Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)		Description of Services	
			Between 01.07.2017 and 25.01.2018	After 25.01.2018 till date after amendment vide Notification No.2/2018-CT (Rate) dated 25.08.2018
66	Heading 9992		Services provided-	Services provided-
		(a)	by an educational institution to its students, faculty and staff;	by an educational institution to its students, faculty and staff;
		(aa)	--	by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;"
		(b)	to an educational institution, by way of,-	to an educational institution, by way of,-
		(i)	Transportation of students, faculty and staff;	transportation of students, faculty and staff;
		(ii)	catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;	catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;
		(iii)	security or cleaning or housekeeping services performed in such educational institution;	security or cleaning or housekeeping services performed in such educational institution;
		(iv)	services relating to admission to, or conduct of examination by, such institution; [up to higher secondary*];	services relating to admission to, or conduct of examination by, such institution;
		(v)	--	supply of online educational journals or periodicals



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Sl. No.	Chapter, Section, Heading, Group or Service Code (Tariff)		Description of Services
			Provided that nothing contained in entry (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent. Provided that nothing contained in <i>sub-items (i), (ii) and (iii) of item (b)</i> shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent. Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of: i. pre-school education upto school or equivalent; or ii. education as a part of an approved vocational education course.

* deleted by Notification No.2/2018-CT (Rate) dated 25.01.2018

* Bold portion in the last column were inserted / amended vide Notification No.2/2018-CT (Rate) dated 25.01.2018

73.By deleting the above expression “**upto Higher Secondary**”,

Entry No.66 to Notification No.12/2017-CT (Rate) dated 28.02.2017



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read similar to Entry 9 to Mega Exemption Notification No.25/2012-S.T dated 20.06.2012 as amended by Notification No.6/2014-ST (Rate) dated 11.07.2014 and Notification No.9/2016-ST (Rate) dated 01.03.2016.

74.Relevant portion of Entry 9 to Mega Exemption Notification No.25/2012-S.T dated 20.06.2012 for the purpose of this case as it stood after amendment by Notification No.9/2016-ST (Rate) dated 01.03.2016 and Entry 66 to Notification No.12/2017-CT (Rate) dated 28.02.2017 as it amended by Notification No.2/2018-CT (Rate) dated 25.01.2018 are reproduced below:-

Entry 9(b)(iv) to Mega Exemption Notification No.25/2012-S.T dated 20.06.2012 as amended by Notification No.9/2016-ST dated 01.03.2016	Entry No.66 (b) (iv) to Notification No.12/2017-CT dated 28.02.2017.
Services provided - (b) to an educational institution , by way of,- (iv) services relating to admission to, or conduct of examination by, such institution;	Services provided - (b) to an <i>educational institution</i> , by way of,- (iv) services relating to admission to, or conduct of examination by, such institution; Provided that nothing contained in <i>sub-items (i), (ii) and (iii) of item (b)</i> shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.



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Entry 9(b)(iv) to Mega Exemption Notification No.25/2012-S.T dated 20.06.2012 as amended by Notification No.9/2016-ST dated 01.03.2016	Entry No.66 (b) (iv) to Notification No.12/2017-CT dated 28.02.2017.
	Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of: i. pre-school education upto school or equivalent; or ii. education as a part of an approved vocational education course.
2.Definitions – For the purpose of this notification, unless the context otherwise requires, - (oa) “educational institution” means an institution providing services by way of:- a. pre-school education and education up to higher secondary school or equivalent; <u>b. education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;</u> c. education as a part of an approved vocational education course.”	2.Definitions – For the purpose of this notification, unless the context otherwise requires, - (y) “educational institution” means an institution providing services by way of,- (i) pre-school education and education up to higher secondary school or equivalent; <u>(ii) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;</u> (iii) education as a part of an approved vocational education course.”

75.Although, the expression “**up to Higher Secondary**” was deleted from Entry 66 (b) (iv) to Notification No.12/2017-CT (Rate) dated 28.02.2017 by the amendment vide Notification No.2/2018–CT (Rate) dated 25.01.2018, the proviso made it clear that the benefit in



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Entry 66 (b) (i) (ii) & (iii) was confined only to services provided to institution providing services by way of pre-school education and education up to higher secondary school or equivalent.

76.Deletion of “**up to Higher Secondary**” to Entry 66 (b) (iv) to Notification No.12/2017-CT (Rate) dated 28.02.2017 by Notification No.2/2018-CT (Rate) dated 25.01.2018 however did not mean service provided to the constituent colleges such as petitioner in W.P.No.11038 of 2022 & W.P.No.5967 of 2023 by the Bharathiar University were exempted after amendment to Entry (b) (iv) to Entry No.66 to Notification No.12/2017-CT (Rate) dated 28.02.2017 vide Notification No.2/2018– CT (Rate) dated 25.01.2018.

77.There is no ambiguity in the language in Entry b (iv) to Entry 66 to Notification No.12/2017 – CT (Rate) dated 28.06.2017 as amended by Notification No.2/2018-CT dated 25.01.2018. Entry b (iv) to Entry 66 to Notification No.12/2017 – CT (Rate) dated 28.06.2017 as amended by Notification No.2/2018-CT dated 25.01.2018 is applicable only for services relating to examination or conduct of examination by petitioner colleges in W.P.No.11038 of 2022 & W.P.No.5967 of 2023 and not to



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work relating to affiliation.

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78.The Hon'ble Supreme Court has repeatedly held that the operation of the notification has to be judged not by the object which the rule making authority had in mind but the express words it has employed effectuate the legislative intent.

79.In **Union of India vs. Wood Papers Limited**, 1990 (47) ELT 500, the Hon'ble Supreme Court held that at the stage of applicability, the Notification has to be construed strictly and the ambit should not be widened or extended. It further held that only once that stage is crossed, the notification should be construed liberally that is other technicalities and procedural compliances should not come in the way of extending the benefit.

80.In this connection, the decision of the Kings Bench Division in **Cape Brandy Syndicate Vs. IRC** (1921)1 KB 64, is invited, wherein it was held as follows:-

“In taxing statute one has to look merely at what is clearly said. There is no room for



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intendment. There is no equity about tax. There is no presumption as to tax. Nothing is to read in, nothing is to be implied. One can only look fairly at the languages used. Statute has to be read plainly.

4.It is to be examined whether all the conditions laid down in Sec.44888 are cumulatively fulfilled or not. Even if one of the conditions is not fulfilled appellant would not be eligible for the benefit of the said Section.”

81.In this regard, the principle of strict interpretation of law is to be reckoned. Time and again it is held by various legal forums including the Supreme Court that where the language of the provision is clear it should be strictly construed. Courts cannot add, subtract or substitute any word of the provision. **CIT Vs. Sundaram Iyengar and Sons (P) Ltd.**, (1975) 101 ITR 764 (SC); **Murarilal Mahabir Prasad V B.R.Vad** (1976) 37 STC 77 (SC).

82.First, the words are to be given their ordinary meaning. There is no room for any intendment. One can only look fairly at the language used. (188 ITR 402 SC). The cardinal principle of interpretation of fiscal laws is that given provision should be construed strictly and so long as the provision is free from any ambiguity, the words used therein should



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be given their plain meaning without importing into it any foreign words

and without subtracting any words therefrom. In **Britannia Industries**

Ltd. Vs. Commissioner of Income Tax and another, 278 ITR 546 (SC)

it was held by the Apex Court that “when the language of a statute is clear and unambiguous, the Courts are to interpret the same in its literal sense and not to give a meaning which would cause violence to the provisions of the statute.”

83.This view has been followed by the Hon’ble Supreme Court in several cases. Some of the decisions rendered by the Hon’ble Supreme Court in the context of taxing statute, wherein the above principle has been reiterated are enumerated as under:-

i. Commissioner of Central Excise, Raipur vs. Sepco Electric Power Construction Corporation, 2022(062) GSTL 0385 SC;

ii. Union of India vs. Mrgadarshi Chit Funds(P) Ltd., 2017(003)GSTL 0003 SC;

iii. Commissioner of Cus.(Import), Mumbai vs. Dilip Kumar & Company, 2018(361)ELT 0372 SC;

iv. Shabina Abraham vs. Collector of Central Excise and Customs, 2015(322)ELT 0373 SC;

v. M.P. Steel Corporation vs. Commissioner of Central Excise, 2015(319)ELT 0373 SC;

vi. Dujodwala Resins & Terpenes Ltd., 2014(311)ELT 0892 G.O.I.;



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- vii. **Sanket Food Products P.Ltd., 2014(307)ELT 0608 G.O.I;**
- viii. **Unique Pharmaceutical Laboratories, 2013(295)ELT 0129 G.O.I;**
- ix. **Ranbaxy Laboratories Ltd. vs. Union of India, 2011(273)ELT 0003 S.C.;**
- x. **Commissioner of C.Ex. Chandigarh vs. Doaba Steel Rolling Mills, 2011(269)ELT 0298 SC;**
- xi. **Pappu Sweets and Biscuits vs. Commissioner of Trade Tax, U.P.Lucknow, 2004(178)ELT 0048 S.C;**
- xii. **Commissioner of Central Excise, Pondicherry vs. Acer India Ltd., 2004(172) ELT 0289 S.C;**
- xiii. **Commissioner of Cental Excise, Meerut vs. Kisan Sahkari Chinni Mills Ltd., 2001(138)ELT 0946 G.O.I;**
- xiv. **BaidyanathAyurved Bhawan Pvt. Ltd., vs. Excise Commissioner U.P., 1999(110)ELT 0363 S.C;**
- xv. **Calcutta Jute Manufacturing Co. vs. Commercial Tax Officer, 1997(093) ELT 0657 S.C;**
- xvi. **Mafatlal Industries Ltd., vs. Union of India, 1997(089) ELT 0247 S.C;**
- xvii. **Aphali Pharmaceuticals Ltd. vs. State of Maharashtra, 1989(044) ELT 0613 S.C;**
- xviii. **Shabian Abraham vs. Collector of Central Excise and Customs, 2017(050) STR 0241 S.C;**
- xix. **M.P.Steel Corporation vs. Commissioner of Central Excise, 2017(050) STR 0205 S.C and**
- xx. **Ranbaxy Laboratories Ltd vs. Union of India, 2012 (027) STR 0193 S.C**

84. The Hon'ble Supreme Court in the case of **A.V.Fernandez vs.**



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State of Kerala, AIR 1957 SC 657, held as follows:-

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“It is no doubt, true that in construing fiscal statutes and in determining the liability of a subject to tax one must have regard to the strict letter of the law and not merely to the spirit of the statute or the strict letter of the law and not merely to the spirit of the statute or the substance of the law. If the Revenue satisfies the Court that the case substance of the law. If the Revenue satisfies the Court that the case falls strictly within the provisions of the law, the subject can be taxed. If, on the other hand, the case is not covered within the four corners of the provisions of the taxing statute, no tax can be imposed by interference or by analogy or by trying to probe into the intentions of the legislature and by considering what was the substance of the matter. We must of necessity, therefore, have regard to the actual provisions of the Act and the rules made there under before we can come to the conclusion that the appellant was liable to assessment as contended by the Sales Tax Authorities.”

85.Although, with effect from 25.01.2018 although the expression upto “higher secondary” was deleted from Notification No.12/2017-CT (Rate) dated 28.06.2017, yet it has to be held that the services provided to the petitioner by Bharathiyar University services was not relating to admission to, or conduct of examination by the petitioner. Only such ancillary services provided in relation to admission or to conduct of examination by the petitioner alone would have been exempted from payment of tax under the respective GST enactment.



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86. Therefore, even on a demur service relating to admission to, or conduct of examination by Educational Institution as defined in Clause 2 (y) to the Notification No.12/2017-CT (Rate) dated 28.06.2017 cannot apply to service provided in relation to grant or renewal of affiliation of the petitioners in W.P.No.11038 of 2022 & W.P.No.5967 of 2023 to the Bharathiar University.

87. The service of admission or conduct of examination cannot be equated on par with service provided to the petitioners in W.P.No.11038 of 2022 and W.P.No.5967 of 2023 by Bharathiar University. Similarly, service provided by the respective Universities are also exempted. By no stretch of imagination, there is any scope for drawing an inference that service provided by the Bharathiyar University or Pondicherry University or the Tamil Nadu Dr.MGR Medical University to their constituent colleges can be construed be exempted under Entry 9 to Notification No.12/2017-CT (Rate) dated 28.06.2017.

88. Therefore, to begin with there was no scope for granting exemption under Entry (b) (iv) to Entry No.66 to Notification No.12/2017-CT (Rate) dated 28.02.2017 as it was confined only to such



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specified services provided to such “educational institutions” imparting education up to “higher secondary education” recognized by law.

89.It is therefore held that Entry (b) (iv) to Entry 66 to Notification No.12/2017 – CT (Rate) dated 28.06.2017 as amended by Notification No.2/2018-CT dated 25.01.2018 is confined only to services relating to admission to, or conduct of examination by educational institution and not to services relating to affiliation of constituent colleges.

90.In view of the above discussions, W.P.Nos.11038 of 2022 & W.P.No.5967 of 2023 are liable to be dismissed and are accordingly dismissed. W.P.No.27092 of 2022 & W.P.No.24261 of 2022 are dismissed with the liberty to reply / file appeal as mentioned in above. Consequently, the connected Miscellaneous Petitions are closed. No costs.

12.10.2023

kkd / krk

Index : Yes
Internet : Yes / No
Neutral Citation : Yes / No



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- To
1. Authority for Clarification and Advance Ruling, Tamilnadu,
Door No.32, Integrated Commercial Taxes Office Complex,
5th Floor, Room No.503, Elephant Gate Bridge Road,
Chennai – 600 002.
 2. The Commissioner of Central Tax & GST,
GST Bhavan, 6/7, ATD Street,
Race Course Road,
Coimbatore – 641 018.
 3. The Assistant Commissioner,
Velandi Palayam Assessment Circle,
Commercial Taxes Annex Buildings,
Dr. Baladundaram Chettiar Road,
Coimbatore – 641 018.
 4. Bharathiar University,
Marudhamalai Road,
Coimbatore – 641 046.
 5. The Assistant Commissioner GST & Central Excise,
Puducherry Division III,
No.14, Municipal Street,
Reddiarpalayam,
Puducherry – 605 010.
 6. Joint Commissioner,
Office of the Commissioner of GST & Central Excise,
MHU Complex, 5th Floor,
No.692, Anna Salai, Nandanam,
Chennai – 600 035.



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C.SARAVANAN, J.

kkd / krk

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12.10.2023