



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 4389 OF 2025

University of Mumbai

... Petitioner

Vs

Union of India & Ors.

... Respondents

Mr. V. Raghuraman, Senior Counsel a/w. Mr. Raghvendra C.R, Mr. Sriraj Menon, Mr. Avesh Ganja and Mr. Sandesh Panchal i/b. Satyaki Law Associates for the petitioner.

Mr. Jitendra B. Mishra a/w. Mr. Saket Ketkar, Mr. Ashutosh Mishra and Mr. Rupesh Dubey for respondent nos. 1 to 5.

Ms. Jyoti Chavan, Addl. G.P. for respondent nos. 6 and 7 – State of Maharashtra.

|               |   |                                      |
|---------------|---|--------------------------------------|
| CORAM         | : | G. S. KULKARNI &<br>AARTI SATHE, JJ. |
| RESERVED ON   | : | 23 APRIL 2026.                       |
| PRONOUNCED ON | : | 27 APRIL 2026.                       |

**Judgment (Per G. S. Kulkarni, J.) :-**

1. Rule, made returnable forthwith. Respondents waive service. By consent of the parties, heard finally.

2. This petition under Article 226 of the Constitution of India challenges the order-in-original dated 27 January, 2025 along with Summary Order dated 28 January, 2025 issued by respondent no. 2 whereby a Goods and Services Tax (GST) demand amounting to Rs.16,90,05,337/- has been confirmed against the petitioner under the provisions of Section 74(1) of the Central Goods & Services Tax (CGST) Act, 2017 read with the corresponding provisions of the Maharashtra Goods and Services Tax Act, 2017, and Section 20 of the Integrated Goods and Services Tax (IGST) Act, 2017. Also the penalty equivalent to the said amount

under the provisions of Section 74(1) read with Section 122 of the CGST Act has been confirmed against the petitioner by the impugned order. The petitioner has also prayed for other reliefs, which are in relation to setting aside of the rectification order dated 23 June, 2025, as also has prayed for quashing of Circular No. 151/07/2021-GST dated 17 June, 2021 issued by Central Board and Indirect Taxes as also instructions dated 5 October, 2018/22 June, 2020 issued by respondent no. 3. The substantive prayers are prayer clauses (a) to (g) of the petition, which are required to be noted, which read thus:

“a) That this Court be pleased to issue writ of certiorari or any other appropriate writ, order or direction to quash the impugned order in original bearing No. 154/ADC/MUMSOUTH/VS/2024-25 dated 27.01.2025, along with the summary order dated 28.01.2025 issued by respondent no. 2, enclosed as “Exhibit-A and A1”.

b) That this Court be pleased to issue writ of certiorari or any other appropriate writ, order or direction quash the Rectification Order bearing No. 01/JC/MUMBAI SOUTH/UM/RECTIFY/2025-26 dated 23.06,2025 issued by respondent no. 3, copy of the rectification order dated 23.06.2025 is enclosed as “Exhibit -B”.

c) That this Court be pleased to issue writ of certiorari or any other appropriate writ, order or direction to quash the impugned Circular No. 151/07/2021-GST dated 17/06/2021 issued by Central Board and Indirect Taxes – Respondent no. 4, enclosed as “Exhibit-C”.

d) That this Court be pleased to issue writ of certiorari or any other appropriate writ, order or direction to quash the impugned Circular No. 234/28/2024-GT dated 11.10.2024 issued by Central Board and Indirect Taxes- respondent no. 4, enclosed as “Exhibit-D”.

e) That this Court be pleased to issue writ of certiorari or any other appropriate writ, order or direction to quash Para 5.54 and Para 5.55 of Minutes of 54<sup>th</sup> GST Council Meeting dated 09.09.2024 by respondent no. 5, Copy of the para 5.54 and 5.55 of 54<sup>th</sup> GST Council Meeting dated 09.09.2024 enclosed as “Exhibit-E”.

f) That this Court be pleased to issue writ of certiorari or any other appropriate writ, order or direction to quash Instruction bearing D.O.F. No. CBEC/20/43/01/2017-GST dated 05.10.2018 issued by respondent no. 3, enclosed as “Exhibit-F”.

g) That this Court be pleased to issue writ of certiorari or any other appropriate writ, order or direction to quash Instruction vide letter bearing D.O.F. No. CBEC-20/10/07/2019-GST dated 22.6.2020 issued by respondent no. 3, enclosed as “Exhibit-F1”.

3. The relevant facts are required to be noted: The petitioner is a University established under a state legislation. It was established under the Bombay University Act, 1953 and thereafter it was governed under the provisions of Maharashtra Universities Act, 1994, which came to be repealed and succeeded by promulgation of the Maharashtra Public Universities Act, 2016 with effect from 1 March, 2017.

4. The genesis of the present proceedings lies in a show cause notice dated 18 July, 2024 issued to the petitioner in Form DRC-01 under section 74 of the CGST Act proposing to demand GST on the “affiliation fees” collected by the petitioner along with interest and penalty for the financial year 2017-18 to 2022-23.

5. The petitioner replied to the said show cause notice by its letter dated 28 October, 2024 *inter alia* contending that it being a statutory University, was engaged in the statutory duties of granting affiliation to colleges and for which it charges affiliation fees to undertake the various obligations under the statute for granting affiliation and for renewal of affiliation being the statutory functions under the provision of Maharashtra Public Universities Act and hence, the petitioner was not liable to pay GST on the affiliation fees so collected.

6. Respondent no. 2 granted a hearing to the petitioner on the show cause notice wherein the petitioner raised all the contentions as set out in the reply to

the show cause notice. In pursuance of such hearing, respondent no. 2 passed the impugned order-in-original dated 27 January, 2025, which was for the period 2017-18 till 2022-23 confirming the GST payable on affiliation fees amounting to Rs.16,90,05,337/- along with applicable interest and penalty. Also, a summary order was issued on the next date, i.e., on 28 January, 2025. Being confronted with such order, the petitioner filed an application for rectification of the impugned order-in-original, as per the provisions of Section 161 of CGST Act, contending that the figures, which were furnished by the petitioner at the stage of show cause notice were not correct, by setting out the said reasons and the revised figures of total affiliation fees collected by the petitioner for the financial year 2017-18 till 2022-23 were submitted, along with all the relevant documents with a request that the Order-in-Original be accordingly rectified.

7. The rectification application was adjudicated by the respondent no. 3-Joint Commissioner of CGST and Central Excise, who passed the rectification order dated 23 June, 2025 rejecting the petitioner's application, *inter alia* observing that the scope of rectification cannot be used as a substitute for the appeal, as the grounds under which the petitioner had filed an rectification application was on merits of the determination made in the Order-in-Original and was of the nature required to be addressed by the appellate authority.

8. It is in these circumstances, the petitioner has filed the present petition praying for the reliefs as noted by us hereinabove.

9. Mr. Raghuraman, learned senior counsel for the petitioner would support the prayers *inter alia* contending that the impugned Order-in-Original is passed

wholly without jurisdiction, inasmuch as respondent no. 2 has failed to consider the issue as to whether the petitioner, which was a statutory University was at all providing service under the provisions of CGST/MGST Act so as to become liable for payment of GST. It is his submission that the impugned order is arising out of the show cause notice which was issued on an assumed jurisdiction, i.e., jurisdiction which actually does not exist as to taxability of the activities of the University. It is his submission that in order to invoke the provisions of CGST/MGST Act to demand GST, the activities of the petitioner University to collect affiliation fees were required to be amenable to GST. It is submitted that Section 9 of CGST Act, 2017, is a charging section which provides for levy of GST on 'supply of goods or services or both'. Further, Section 7 of the CGST/MGST Act defines the scope of the phrase 'supply', in terms whereof, all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person in the course of furtherance of business, is the only relevant consideration. It is also his submission that the term 'business' defined under Section 2(17) of the CGST Act certainly would not include the nature of activities of the statutory University which is constituted under the act of State Legislature and although governed under the Maharashtra Public Universities Act, 2016, the genesis is found to be in the Bombay Universities Act, 1953 and thereafter Maharashtra Universities Act, 1994.

10. Mr. Raghuraman would submit that the educational activities of a statutory university cannot be termed as business activities and the amounts received by it

towards affiliation fees would not fall within the ambit of consideration for the statutory activities of the University and hence not amenable for payment of GST. In such context, it is submitted that commercial activities are required to be interpreted considering the decision of the Supreme Court in **All India Federation of Tax Practitioners vs. Union of India**<sup>1</sup>, namely, commercial activities involving production of goods and provisions of services in the context of GST being destination-based consumption tax as it is borne by the consumer/end user in the supply chain. The said view being reiterated by the Supreme Court in the case of **Union of India v. VKC Footsteps India (P) Ltd.**<sup>2</sup>.

11. As to how the term ‘education’ has been considered in several decisions of the Supreme Court is also the contention of the petitioners relying on the several decisions in regard to which the principles of law appear to be well-settled that a wide meaning needs to be attributed to the word “education” when it concerns the process of training and acquiring the knowledge, skills, developing mind and character by learning. The contention is that the activities of the petitioner-University cannot be categorized as business activities so as to attract the provisions of Section 7 read with Section 9 of CGST/MGST Act. It is submitted that the collection of affiliation fees for affiliation to be granted to colleges or institutions under the provisions of Universities Act certainly does not qualify to be consideration within the ambit of Section 2(31) of the CGST/MGST Act. It is purely a statutory function which is required to be undertaken by the petitioner in performance of its statutory duties under the Act. It is submitted that in any

**1** 2007(7) STR 625

**2** (2021) 130 taxmann.com 193(SC)

event, the statutory services being provided by the petitioner-University to the students are covered under the Exemption Notification No. 12/2017-CT(R) dated 28 June, 2017 drawing our attention to Entry No. 66 thereof as also the Government of Maharashtra issuing a corresponding notification.

12. Mr. Raghuraman drawing the Court's attention to the impugned Circular No. 151/07/2021-GST dated 17 June, 2021 and Circular No. 234/28/2024-GT dated 11 October, 2024 issued by respondent no. 4, would submit that the same are ultra vires the provisions of the GST laws, as the impugned order considers these circulars. The contention in this regard is that while clarifying the exemptions available to the National Board of Examination, in paragraph 4(iii) of the circular, respondent no. 4 has erroneously provided, that GST at the rate of 18% applies to other services provided by such boards, namely of providing accreditation to an institution. Also in paragraph 2 on the basis of recommendation of the 54<sup>th</sup> GST Council meeting, respondent no. 2 in Circular No. 234/28/2024-GST dated 11 October, 2024, erroneously clarifies that affiliation services provided by universities to their constituent colleges are not covered within the ambit of exemptions provided to educational institutions. It is submitted that such clarifications are contrary to the provisions of Section 7 and Section 9 of the CGST/MGST Act. It is submitted that considering the settled principles of law, there cannot be any clarifications which are contrary to the statutory provisions and such clarifications would have no valid existence in law. Lastly, it is submitted that the contention which the petitioner is canvassing is no more *res integra* in view of the decision of the co-ordinate Bench of this Court at

Goa in **Goa University vs. Joint Commissioner of Central Goods and Services Tax**<sup>3</sup>. It is submitted that in fact the issue initially had fell for consideration of the High Court of Karnataka in the case of **Principal Additional Director General, DGGSTI vs. Rajiv Gandhi University of Health Sciences**<sup>4</sup>, which has been followed by the co-ordinate Bench in the case of **Goa University** (supra). It is submitted that the decision of High Court of Karnataka in **Rajiv Gandhi University of Health Science** (supra) has been affirmed by the Supreme Court in Special Leave Petition (Civil) Diary No. 59470 of 2024 vide order dated 24 January, 2025, being dismissed.

13. Mr. Raghuraman has also placed reliance on the decision of High Court of Rajasthan at Jodhpur in the case of **Rajasthan Technical University, Kota vs. Union of India & Ors.**<sup>5</sup> wherein similar view has been taken that affiliation fees are not consideration for any taxable activity.

14. On the aforesaid submissions, Mr. Raghuraman would urge that the impugned order deserves to be quashed and set aside fundamentally for the reason that the same has been passed by respondent no. 2 in the absence of jurisdiction. Secondly, it is wholly contrary to the provisions of Sections 7 and 9 of the CGST/MGST Act as also it is bad on the ground that it places reliance on the Circulars as noted by us hereinabove, which are in fact contrary to the Exemption Notification dated 28 June, 2017 and lastly that the issue is no more

---

**3** 2025 SCC OnLine Bom 1262

**4** (2024) 22 Centax 526 (Kar.)

**5** D.B. Civil Writ Petition No. 9556 of 2024 decided on 23 February, 2026

*res integra* in view of the pronouncement of this Court in the case of **Rajiv Gandhi University of Health Sciences** (supra), **Goa University** (supra) and **Rajasthan Technical University, Kota vs. Union of India & Ors.** (supra).

15. On the other hand, Mr. Mishra, learned counsel for the respondent has supported the impugned order. Mr. Mishra has placed reliance on the reply affidavit filed by Mr. Suhrud A. Rabde, Assistant Commissioner on behalf of respondent no. 2 in opposing this petition. There are number of contentions, which are urged in the reply affidavit including on the objection that the petition ought not to be entertained on the ground that there is alternate remedy available to the petitioner in filing the appeal assailing the Order-in-original by taking recourse to Section 107 of CGST/MGST Act. Referring to the reply, Mr. Mishra would submit that considering the scheme of GST legislation and more particularly, purport of Sections 7 and 9 read with definition of ‘business’ under Section 2(17) of the CGST Act, the activities of the petitioner are clearly in the nature of supply, which includes all forms of services made for consideration and as the term ‘business’ is of wide amplitude, to include activities irrespective of profit motive. It is his contention that although the petitioner is engaged in systematic and continuous activities involving collection of fees for affiliation of colleges, which have a direct nexus with the services rendered. Such collection would constitute ‘supply’ under Section 7 and attracting levy under Section 9. It is, therefore, his submission that clearly jurisdictional facts were available for respondent no. 2 to assume jurisdiction to issue show cause notice. It is also his contention that the Exemption Notification dated 28 June 2017 is required to be

read as applicable to the Educational Institutions and not the University and for such reason, the Exemption Notification is of no consequences insofar as the petitioner's case is concerned. It is submitted that reliance placed on the decision of **Goa University** (supra) is totally misplaced and distinguishable, as the same is based on specific facts and does not lay down a universal proposition. On the principle that taxability under GST is activity-specific and must be independently examined. Reply affidavit has dealt with several contentions as urged in the memo of the petition and parawise, however, the sum and substance in the reply affidavit is that the nature of activity of the petitioner-University is very well within the ambit of Sections 7 and 9 of the CGST Act.

16. Mr. Mishra would accordingly pray that the petition would not warrant any interference and the same be dismissed.

**Analysis and conclusion:-**

17. We have heard learned counsel for the parties. We have perused the record.

18. At the outset, the issue which falls for consideration is whether the collection of affiliation fees by the petitioner, which is a statutory University, would attract levy of the GST.

19. At the outset, we may observe that it is not in dispute that the petitioner is a University, which was initially established under the provisions of the Bombay University Act, 1953 and later on governed by the Maharashtra University Act,

1994 and now governed by Maharashtra Public Universities Act, 2016. It would be necessary to note the scheme of Maharashtra Public Universities Act, 2016. Section 3 of the said Act provides for 'Incorporation of Universities', which *inter alia* provides that each of the existing public universities specified in column (1) of Part I of the Schedule A with effect from the date of commencement of the said Act, shall be deemed to be constituted under the Maharashtra Public Universities Act, 2016, for which it was constituted immediately before the date of commencement of this Act. Section 4 provides that the objects of University, in general, which shall be to disseminate, create and preserve knowledge and understanding by teaching, research and development, skill development, training and education, extension and service and by effective demonstration and influence of its corporate life on society in general, and in particular, the objects specified in clauses (1) to (18) thereof which are all in relation to dissemination of knowledge. Section 5 provides for 'Powers and duties of University', which *inter alia* include providing for instructions, extension, teaching, learning and training in such branches or subjects or disciplines and courses of study; to make provision for research and for the advancement and dissemination of knowledge, to make provision to enable the affiliated colleges to undertake specialized studies and several other powers and duties. This includes the power to grant affiliation to colleges as per the provisions of Chapter X, which incorporate provisions from Section 107 up to Section 124, dealing with Perspective Plan (Section 107), Conditions of affiliation and recognition (Section 108), Procedure for permission for opening new college or new course, subject, faculty, division (Section 109),

Procedure for affiliation (Section 110), Procedure of recognition of institution (Section 111), Procedure for recognition of private education provider (Section 112), Recognition to empowered autonomous skills development colleges (Section 113), Continuation of affiliation or recognition (Section 114), Extension of affiliation or recognition (Section 115), Permanent affiliation and recognition (Section 116), Inspection of colleges and recognized institutions and report (Section 117), Shifting college location (Section 118), Transfer of management (Section 119), Withdrawal of affiliation or recognition (Section 120), Closure of affiliated college or recognized institutions (Section 121), Autonomous university department or institutions, college or recognized institution (Section 122), Empowered autonomous colleges (Section 123), Empowered autonomous cluster institutions (Section 124).

20. It appears to us that Chapter X insofar as granting of affiliation is concerned, is a code by itself, for which the University certainly is required to undertake activities which involves expenditure *inter alia* in relation to verification of the necessary infrastructure for starting a college, expert consultation on land and building, laboratories, and other necessary educational facilities mandatorily to be made available by an educational institution to start a college. All such activities are, however, within the framework of the statutory scheme and not for any profit or *per se* any service being provided under any business as the law would envisage. Such activities of the University are required to be read in the context of definition of ‘affiliated college’, ‘college’, ‘conducted college’, ‘university’, ‘university areas’, university teacher, as relied on behalf of the

petitioner. All such activities do not admit of any commercial concept, so as to regard the activities of the university as any business activities. It is in fact a mission to disseminate education, where the considerations of commerce are alien to the object and purpose of a statutory university being founded under the law.

21. The question is whether such activities would fall within the ambit and purview of Section 7 of the CGST/MGST Act so as to attract the applicability of Section 9 of the CGST/MGST Act. Section 7 falls under Chapter III, which provides for 'Levy and Collection of Tax'. Section 7 defines the 'Scope of supply'. Section 9 is the charging provision for 'Levy and collection'. It would be imperative to extract the said provisions, which read thus:

**"7. Scope of supply.** (1) For the purposes of this Act, the expression "supply" includes-

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

Explanation. For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;

(b) import of services for a consideration whether or not in the course or furtherance of business and;

(c) the activities specified in Schedule I, made or agreed to be made without a consideration;

(1-A) where certain activities or transactions constitute a supply in

accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

(2) Notwithstanding anything contained in sub-section (1), -

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

(3) Subject to the provisions of sub-sections (1), (1-A) and (2)], the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as -

(a) a supply of goods and not as a supply of services; or

(b) a supply of services and not as a supply of goods.

9. Levy and collection. - (1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

(2) The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

(3) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person

liable for paying the tax in relation to such supply of goods or services or both.

(5) The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.”

22. On a plain reading of Section 7(1)(a), it is clear that the expression ‘supply’ in the present context necessarily would include all forms of supply of goods or service or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course of furtherance of business. In our opinion, considering the nature of the statutory activities being undertaken by the University and in relation thereto, collecting of the affiliation fees certainly cannot be held to be a form of supply of any service of the nature as contemplated in clause (a) of Section 7(1). The respondent’s contention of simplicitor selecting the words “furtherance of business” to submit that the business would be required to be understood in the context of Section 2(17)(a), is not well founded inasmuch as the words ‘furtherance of business’ as used in clause (a) of Section 7(1) are required to be read not in isolation but in the context of the preceding contents of clause (a), i.e., that supply of goods or services in the context such as sale, transfer, barter, exchange, licence, rental, lease or disposal which is made or agreed to be made for a consideration either in the

course or furtherance of business. Thus, none of the contents of clause (a) of Section 7(1) would imply, the inclusion of statutory activities of granting of affiliation and for that matter, collection of affiliation fees. Even the reliance on definition of ‘business’ under Section 2(17)(a) also would not assist the respondents, which defines business to be “any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, which needs to be read *ejusdem generis* where such activity is for a pecuniary benefit and activities incidental thereto.

23. It is thus difficult to accept the respondent’s contentions as canvassed that the nature of the activities of the University which are singularly and purely intended to further the object and intention of the Act can at all be categorized as trade, commerce, manufacture, profession, vocation , adventure, wager etc. In such context, it is imperative to note the object and intention of the Act, which is clear from the long title of the Maharashtra Public Universities Act, 2016, which reads thus:

**“An Act to provide for academic autonomy and excellence, adequate representation through democratic process, transformation, strengthening and regulating higher education and for matters connected therewith or incidental thereto.”**

24. In the aforesaid clear object and intention of the statute to regard the petitioner-university undertaking “business” in collection of the affiliation fees, in our opinion, would amount to doing violence to the purpose and intention of the legislation. Thus, having examined Section 7 and its purport in regard to its

applicability in the context of the petitioner University receiving affiliation fee , in our opinion, there ought not to be any ambiguity that the collection of affiliation fees by the petitioner University in the discharge of its statutory functions, as noted hereinabove, can at all amount to a “supply” as defined under Section 7 of the CGST Act. As a consequence thereto, once such activity itself is not ‘supply’ and/or it is not business within the meaning and purview of sub-section 1(a) of Section 7, there is no question of the charging provision i.e. Section 9 which provides for levy and collection being applicable. As a sequel thereto, once Sections 7 and 9 itself are not applicable, the proper officer would not have jurisdiction to issue show cause notice under section 74 of CGST Act.

25. It is well settled that GST is a destination-based tax. If the said provisions are to be made applicable to affiliation fees, an intention would be required to be gathered that it is its students who may ultimately become liable to bear the brunt of such taxes. This does not appear to be an intention including to consider canvass of the exemption notification dated 28 June 2017, whereby the education activities as specified in the said notification are being exempted. If that be so, we wonder as to how the statutory university can itself be subjected to any levy of GST and that too taking recourse to Sections 7 and 9. Thus looked from any angle, the insistence of the proper officer to levy GST on the affiliation fees being received by the petitioner-university appears to be lacking any basis either under the GST laws and even otherwise.

26. Having reached the aforesaid conclusion, we do not intend to delve on the

settled principles of law in the several decisions considering the scope and ambit of the term “education”, and as to what would amount to education. This more particularly in the light of such decisions, if we do not recognize that statutory University constituted under the State Legislation (like the petitioner), is not to be considered to be engaged in education, but in business, this in our opinion, is as good as making a mockery of the University law and/or a gross absurdity to read the Maharashtra Public Universities Act in the manner the GST authorities, intend to construe for the purpose of levy.

27. Thus, on first principles, we are in complete agreement with Mr. Raghuraman when he submits that the proper officer in the present case has acted wholly without jurisdiction in issuing show cause notice and for the further action of passing the Order-in-Original levying and demanding GST from the petitioner on the affiliation fees.

28. We also find much substance in the contentions as urged by Mr. Raghuraman relying on the decision of the co-ordinate Bench of this Court in **Goa University** (supra), which follows the decision of High Court of Karnataka in **Rajiv Gandhi University of Health Sciences** (supra). The reliance on behalf of the petitioner on the decision of the High Court of Rajasthan in **Rajasthan Technical University, Kota vs. Union of India & Ors.** (supra) is also apposite. These are the decisions in which the issue before the Court was similar to the one which fell for our consideration in the present proceedings as to whether on the activities of the concerned Universities in receiving the affiliation fee, GST would at all be

leviable. We note the decision of the co-ordinate Bench of this Court in **Goa University** (supra) wherein following the decision in **Rajiv Gandhi University of Health Sciences** (supra) rendered by the Karnataka High Court, this Court in the very context of the said universities collecting/receiving affiliation fees on which GST was sought to be levied, made the following observations:

“35. Let us turn to the present case. The Petitioner University is established under a statute, namely the Goa University Act, 1984, with the purpose of ensuring proper and systematic instruction, teaching, training, and research. The fees, such as affiliation fees, prospectus fees, migration certificate fees, sports fees, etc., received by the Petitioner are per se not commercial in nature. The State has a duty to provide education to the people of India, and this duty is being discharged through the University.

36. We have already noticed the requirements of Section 7 of the CGST Act. Section 2(31) of the CGST Act defines the phrase "consideration, whereby money or money value, in respect of or in response to a supply, would qualify as consideration. In our opinion, affiliation is undertaken by the University in terms of statutory requirements and in discharge of public functions; therefore, the fee collected for affiliation fails to qualify as "consideration." The fees collected by the University, Le, affiliation fees, PG registration fees, and convocation fees, are not amenable to GST, as the fees are statutory or regulatory in nature and not contractual. The same cannot be given the colour of commercial receipts, as there is no element of commercial activity involved in the subject transaction. In *Assistant Commissioner of Income Tax (Exemptions) v. Ahmedabad Urban Development Authority* (supra), Para 160 held as follows:

"Fee, cess and any other consideration has to receive a purposive interpretation in the present context. If a fee, cess, or such consideration is collected by a State department or statutory entity in furtherance of its mandate, such collection cannot be treated as consideration towards trade or business. Therefore, regulatory activity necessitating the collection of fees or cess in terms of enacted law, or collection of amounts in furtherance of activities such as education, regulation of professions, etc., are per se not business or commercial in nature... [text retained as provided].

37. The concept of consideration involves an element of contractual relationship, wherein the person undertaking the activity of supply does so at the desire of another in exchange for consideration, involving a quid pro quo. In our opinion, the fee collected for affiliation will not qualify as consideration, since neither quid pro quo is involved nor is it a contractual obligation. In *Principal Addl. Directorate General DGGSTI v. Rajiv Gandhi University of Health Sciences* (supra), the Karnataka High Court in Para VIII held as follows:

"Affiliation creates a kind of umbilical cord between the affiliating

body and the affiliated entity... [text retained as provided with minor grammatical corrections]... In view of all this, the Revenue is not justified in levying Service Tax on the income accruing to the University on account of affiliation..... The periodicity of collection of affiliation-related fees pales into insignificance."

38. The Petitioner is actively involved in imparting education to students and acts as a regulator of education. It is by virtue of the affiliation granted by the Petitioner University to constituent colleges that such colleges conduct programmes of study. The activities undertaken by the Petitioner University are statutory and regulatory in nature.

39. The High Court of Madras in *Manonmaniam Sundaranar University v The Joint Director (GST Intelligence)*, 2021-TIOL-888-HC-MAD-ST, held that affiliation fees, as well as inspection commissions collected by the University, are statutory levies. It was held that, by performing such activities, the Petitioner is only discharging a statutory function and the fees collected are not amenable to Service Tax. From a conjoint reading of the statutory provisions and judicial precedents, the fees collected by the Petitioner University under statutory mandate for regulating affiliated colleges cannot be brought within the GST net.

40. We are in respectful agreement with the Karnataka High Court in *Rajiv Gandhi University of Health Sciences (supra)*, which held that a University granting affiliation is also an educational institution. The Madras High Court in *Madurai Kamaraj University v. Jt. Comm of GST & C.Ex.*, Madurai [(2021) 54 GSTL 385 (Mad.)] held that the term "educational institution" includes not only affiliated colleges but also the University itself. Even assuming that affiliation fees constitute a service, such services would fall within the exemption entry, as students of affiliated colleges are ultimately students of the University that grants the degree.

41. Without affiliation from the Petitioner University, constituent colleges are not permitted to admit students for courses. Further, examinations are conducted by the Goa University, leading to the award of degrees. Hence, the fees collected from colleges are covered by the exemption notification. The activity of collecting affiliation fees is exempt from GST and is therefore not liable to tax.

42. Goa University is actively involved in imparting education and regulating education. Section 24 of the Goa University Act empowers the University to frame ordinances relating to admission, enrolment, and fees for admission and examination. Affiliation forms the basis upon which affiliated colleges conduct courses, examinations, and degree-awarding processes. The term "education" should not be narrowly restricted to classroom instruction; rather, it includes curriculum design, affiliation to maintain educational standards, and conferral of degrees."

29. In similar facts, in **Rajasthan Technical University, Kota vs. Union of India & Ors.** (supra), the High Court of Rajasthan High Court held as under:

“41. Affiliation is a statutory and regulatory function intrinsically connected with imparting education, conduct of examinations, and conferment of degrees, and does not amount to a commercial activity. Colleges merely act as facilitators or extended arms of the University; the real beneficiaries of affiliation are students, who are ultimately conferred degrees by the University.

## **FINDINGS**

42. Issue (i): Whether Grant of Affiliation is a Supply of Service-

Section 7 of the CGST Act contemplates supply only when an activity is carried out in the course or furtherance of business. Grant of affiliation is a statutory function enabling the University to discharge its core mandate of imparting education through affiliated colleges. Applying the doctrine of ejusdem generis to Section 2(17), affiliation cannot be equated with trade, commerce, or any activity of commercial character. Accordingly, we hold that grant of affiliation does not constitute a "supply of service".

42.1. Issue (ii): Whether Affiliation Fees Constitute Consideration- Affiliation is compulsory for colleges; there is no element of choice, bargaining, or reciprocity. The fee is a statutory levy, not a payment for a negotiated service. We thus hold that in absence of quid pro quo, the essential element of "consideration" is missing.

42.2. Issue (iii): Applicability of Exemption under Entry 66.

Even assuming affiliation to be a service, it is inseparably connected with: curriculum approval, admission of students, conduct of examinations, and conferment of degrees. Students admitted through affiliated colleges are, in law, students of the University. We hold that entry 66 must be interpreted purposively to cover services forming the backbone of educational delivery, including affiliation.

42.3. Issue (iv): Validity of GST Levy :-

Circulars or executive clarifications cannot override statutory provisions or exemption notifications. Levy of GST on affiliation fees results in indirect taxation of education, which is Impermissible. We hold that the impugned levy is therefore without authority of law.

## **CONCLUSION**

43. As an upshot of the what is reasoned and discussed in the preceding part, it is held that grant of affiliation by a University is a statutory and regulatory function and does not constitute a supply of service under the CGST Act. Affiliation fees are not consideration for any taxable activity. Even otherwise, affiliation services are exempt under Entry 66 of Notification No. 12/2017-CT (Rate). Levy and collection of GST on affiliation fees is illegal and unsustainable.

30. We are in complete agreement with the view taken by this Court in **Goa**

**University** (supra) as also decision of High Court of Karnataka in **Rajiv Gandhi University of Health Sciences** (supra) as also the High Court of Rajasthan in **Rajasthan Technical University, Kota vs. Union of India & Ors.** (supra). As a consequence thereto, we are of the clear opinion that the petition insofar as challenge to the impugned order-in-original to be set aside, needs to succeed.

31. Having reached to the aforesaid conclusion, we may also observe that even assuming that the collection of affiliation fees was to attract the levy of GST (when it is not) certainly the impugned notification when it covers educational institutions and in regard to the nature of services as set out in the notification in heading '9992' or heading '9963', the same needs to apply also to the University as held by the co-ordinate Bench of this Court in **Goa University** (supra). The relevant observations in that regard are required to be noted :

44. It is next contended by the learned Senior Advocate for the petitioner University that services, if any, provided by the Petitioner University to the students are covered under exemption i.e., Entry No. 66 of Notification No. 12/2017-CT (R) dated 28.06.2017. The Union of India in the exercise of powers conferred under Section 11(1) of the CGST Act, 2017, has issued a Notification dated 28.06.2017, also the Government of Goa has issued corresponding notification exempting certain services from the GST. Entry No. 66 of the Notification No. 12/2017-CT (R) dated 28.06.2017 exempts services in relation to education. Entry No.66 of said Notification read as:

| Sr. No. | Chapter, Section, Heading Group or Service (Tariff) | Description of Services                                                                                                                                                                                                         | Rate (%) | Condition |
|---------|-----------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|-----------|
| 66      | Heading 9992 or Heading 9963                        | Services provided: (a) 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 | Nil      | Nil       |

|  |  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |  |
|--|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
|  |  | <p>an educational institution, by way of, (1) transportation of students, faculty and staff; (ii) catering, including any midday 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; (v) supply of online educational journals or periodicals: Provided that nothing contained in sub items (i), (ii) and (iii) of item (b) shall apply to an educational institution other than an institution providing services by way of preschool education and education up to higher secondary school or equivalent:</p> <p>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 up to higher secondary school or equivalent; or (ii) education as a part of an approved vocational education course.</p> |  |  |
|--|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|

45. We thus find that the said entry firstly provides that the service provided by an educational institution to its students, faculty and staff are exempted and secondly, services provided by third parties to an educational institution relating to the matters specified therein are exempted from fees.”

32. On the conspectus of the aforesaid discussion, we are not inclined to accept any of the contentions as urged on behalf of the respondents. We are also not impressed to accept the revenue’s contention relying on the decision of Madras High Court in **Bharathidasan University vs. Joint Commissioner of GST (ST-Intelligence) Trichy Division & Anr.**<sup>6</sup>, considering that this decision has not

---

<sup>6</sup> 2026 SCC OnLine Mad 1190

examined the issue in the same perspective as it has has been examined by us in the present petition as also the consideration of such issues in the decision of **Goa University (supra)**, as also decision of High Court of Karnataka in **Rajiv Gandhi University of Health Sciences (supra)** as also the High Court of Rajasthan in **Rajasthan Technical University, Kota vs. Union of India & Ors. (supra)**.

33. Before parting, it is pertinent to note that the decision of the High Court of Karnataka in **Rajiv Gandhi University of Health Sciences (supra)** has attained finality in the Supreme Court rejecting the SLP and for such reason, once the same has been followed by the co-ordinate Bench of this Court at Goa in **Goa University (supra)**, in our opinion, it would be imperative for the GST authorities to adhere to the said decisions and accordingly take an appropriate view in law, which is exactly not being done in the present case.

34. We clarify that considering the view which we have taken, we have not adjudicated on the legality of the impugned circulars as assailed in the petition, suffice it to observe that no circular which is not conforming to the substantive provisions of law can stand and be applied.

35. In the light of the above discussion, the petition needs to succeed. It is accordingly allowed in terms of prayer clauses (a) and (b).

36. Rule is made absolute in the aforesaid terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)