

GST on Affiliation Fees Paid by the Educational Institution

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All schools and colleges in India must obtain affiliation from a recognized board or university. While it is commonly perceived that anything related to education is generally perceived as exempt from GST, the department has raised some demands proposed by the GST department on the affiliation fees paid by educational institutions. This article will provide insight into the applicability of GST implications on such affiliation fees.

Though the term “affiliation” is not defined under GST law, it typically refers to the formal recognition by a university, allowing a college to offer its courses. In India, the University Grants Commission (UGC)^[1] regulates this through its Regulations^[2], defining affiliation as the recognition, association, or admission of a college to the privileges of a university.

Is exemption entry 66A violative of Article 14 of Constitution of India (COI)?

Entry 66A^[3] exempts affiliation services when provided by a Central or State Educational Board or similar body to a government^[4] school. However, this exemption doesn't apply to private schools, colleges, or deemed universities, even though they perform the same academic functions. Such selective exemption undermines the principle of equality under Article 14 of COI, which requires that any classification must satisfy two tests: **'Intelligible differentia'** and **'Rational nexus to the objective'**. While the intention may have been to support public education, restricting the benefit only to the government-affiliated institutions appears arbitrary and discriminatory, and could potentially be struck down as violative of Article 14 of COI, unless exemption is extended uniformly to all institutions performing the same sovereign or regulatory functions.

This was precisely the issue in *Malappuram Distt. Parallel College Association v. Union of India*^[5], where the Court held that imposing tax on private (parallel) colleges while exempting regular government-affiliated ones was discriminatory, even though both delivered the same syllabus and examinations. The court rightly emphasized here that equality must be assessed from the students' perspective. Imposing tax only on private institutions indirectly burdens the students, defeating the fairness and neutrality guaranteed under Article 14. Times to come for this exemption entry to be judicially tested.

Do affiliation services qualify for exemption under entry 66[6]?

Relevant portion of entry No. 66 reads as follows:

“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 an educational institution, by way of,

(iv) services relating to admission to, or conduct of examination by, such institution;..”

It is relevant to understand whether university and the college, which is charged affiliation fee by the university, are called educational institutions or not. The term “educational institution”^[7] is defined as any institution providing services by way of pre-school to higher secondary education; education as part of a curriculum for obtaining a qualification recognized by law; and approved vocational education courses. Further, the term “university” is defined under Section 2(f) of the UGC Act, 1956, as any institution established by law and recognized by the UGC.

The Hon'ble Supreme Court^[8] held that university also falls within the purview of 'educational institution'. In *Madurai Kamaraj University v. Joint Commissioner ...*^[9] and *Rajiv Gandhi University of Health Sciences*^[10], the “affiliated college” was interpreted as a college within the university's jurisdiction offering courses leading to the university's degrees and to include institutions deemed affiliated to the university. Thus, both the university and affiliated colleges qualify as education institutions, as these both indeed provide education.

Let us now analyse as to whether the activity of providing affiliation falls under any of the clauses of entry 66 *ibid*, as under -

A. Are students of affiliated colleges considered “Students of the University”?

Entry 66(a) exempts services provided by an educational institution to its students, faculty,

and staff. It does not specify the nature of services, implying a broad coverage, including academic, administrative, and ancillary services. As ultimately the student of an affiliated college follows the university's curriculum and appear for its exams, must be regarded as a student of the university which grants him the degree. Thus, if affiliation services are construed as ultimately benefiting these students, the university is then considered to be rendering services to its own students, allowing Entry 66(a) to apply.

B. Are affiliation services rendered to “students of affiliated colleges” or to colleges?

Technically, affiliation services are provided to the colleges and not to students. Yet, as these services regulate and ensure the quality of education imparted to students, the following two interpretations emerge:

- a. If students of affiliated colleges are construed as university students**, and the affiliation is considered essential for their admission & learning, exemption under Entry 66(a) could be justified (***purposive view***).
- b. If affiliation services is construed to be rendered to “affiliated colleges” per se**, then, no exemption would be available under Entry 66(a), as this clause exempts only services provided *by* an educational institution to its students, faculty, and staff. (***literal view***).

Further, there is no separate exemption under GST for services exchanged between two educational institutions, except entry 66A *ibid*, which is limited to specified government bodies. A purposive interpretation should be adopted recognising the ultimate beneficiary (the student) to uphold the educational exemption, in line with the objectives of the GST law and the constitutional mandate under Article 14 of the COI.

C. Can affiliation be construed as “Admission to, or conduct of examination”?

Affiliation is far from being a mere administrative formality—it is the first and essential step that enables a college to admit students, teach approved courses, and conduct university exams. Without affiliation, these academic functions simply cannot take place. Even the term “*admission*”^[11] refers to the process of accepting someone as a student—a process enabled only through affiliation. This view has been supported judicially in the following decisions:

- a. In *Care College of Nursing v. Kaloji Narayana Rao University of Health Sciences*^[12], it was held that admission and academic services follow affiliation, reinforcing its enabling nature.
- b. In *Sahitya Mudranalaya Pvt. Ltd. v. Additional Director General*^[13], it was held that education is incomplete without exams and certifications, drawing a strong link between affiliation and examinations.
- c. In *Nidhi Kaim v. State of M. P*^[14] and *T.N. v. K. Shyam Sunder*^[15], it was emphasized that common curricula and exams lie at the heart of education,

while in *Madurai Kamaraj University v. Joint Commissioner*^[16], the Court recognized that exams are a university function enabled by affiliated colleges—thus, affiliation facilitates this exempt activity.

d. In *Principal and others Vs Presiding Officer and Others*^[17], it was held that affiliation is meant to prepare and present students for public examination.

Hence, affiliation is essentially an activity relating to admission and examination of students and therefore could be covered under Entry 66(b)(iv). Together, these judicial precedents support a broad and purposive interpretation, bringing affiliation within the scope of Entry 66(b)(iv). Despite this, Advance Authorities Ruling^[18] (AAR)^[19] and tax departments often hold that Entry 66(b)(iv) covers only direct services like application processing or exam hosting, not affiliation. Some even say that if the intention was to exempt all education-related activities, the language would have been wider—like “services related to education.”

Supporting that, the Supreme Court in *Dilip Kumar & Co*^[20] held that exemption notifications must be strictly construed, with the burden on the taxpayer to prove applicability. A similar view came in *Union of India v. Wood Papers Ltd*^[21]. On the flip side, the Court in *Mother Superior Adoration Convent*^[22] clarified that any ambiguity in exemptions should favour the taxpayer. So, while judicial trends support a liberal reading in the context of education, the risk of differing departmental views cannot be ruled out.

Is the activity of “affiliation” a sovereign/statutory/ regulatory function?

We discussed previously that exemption is applicable for the affiliation services when provided by Government/ Government bodies. It is important to understand that merely for a reason that exemption is provided, it does not mean that such activity is a supply and liable to GST. Hence, it is important to analyse independently whether the granting of affiliation by the university is a supply and liable to GST or not. The chargeable event under GST is “supply of goods or services or both” in the course or furtherance of business, by a registered person, for a consideration. From the perusal of ‘business’ definition, it also includes activities provided –

- a. for a pecuniary benefit or not i.e., non-commercial activities - Universities may get covered here, even it has no profit motive;
- b. by Central Government/ State Government/Local Authority, in which they are engaged as public authorities – Since universities are set up under the Act of State legislation, these may not be called as Central Government/State Government/Local Authority.

Also, if any activity is carried out without any contractual obligation at the desire of another, in exchange of consideration, it cannot be termed as supply. Here university does not have any contractual obligation with colleges to grant affiliation, hence, activity of granting affiliation cannot be considered as supply and payment made towards affiliation

cannot be considered as 'consideration'.

Further, the activity of granting affiliation is not a supply, if it is sovereign, statutory or regulatory function. In case of P. Mahalingam v. University Grants Commission^[23], UGC's regulatory authority was upheld and held that its activities are not sovereign. Further, it was held by many Courts consistently that sovereign functions include defence, policing, etc. Hence, the functions of UGC are not of the sovereign nature and the activity of granting affiliation is not a sovereign function.

Further it is undisputed fact that without affiliation, the constituent colleges are not permitted to admit students for the courses and degrees are also not awarded to students. Therefore, granting affiliation is a statutory/regulatory function, as also held in Rajiv Gandhi University of Health Sciences^[24] and Manonmaniam Sundaranar University v/s. The Joint Director (GST Intelligence)^[25].

As the dominant activity of university is providing education, which is not a business, and being either a statutory or regulatory function, the activity of granting affiliation also should not be treated as business. This view is supported by the following decisions:

- a. In case of T. M. A. Pai Foundation & Ors vs State Of Karnataka & Ors on 31-10-2002, it was held that providing education is not a business.
- b. In Commissioner of Central Excise, Nasik vs Maharashtra Industrial Development Corporation^[26], wherein it was held that the service fees or charges collected by the Corporation are obviously in the nature of compulsory levy which is used by the Corporation in discharging its statutory obligations and hence they cannot be subjected to service tax.
- c. In Commissioner of Sales Tax Vs. Sai Publication Fund^[27], wherein it was held that where the main activity is not a business then any incidental or ancillary transaction would not get covered under business.

In case of Goa University vs. Joint Commissioner of CGST & Central Excise^[28], Principal Addl. Directorate General DGGSTI vs. Rajiv Gandhi University of Health Sciences^[29] and Assistant Commissioner of Income Tax (Exemptions) v/s. Ahmedabad Urban Development Authority^[30], it was held that payment made towards statutory functions is not consideration. Therefore, granting of affiliation could be fairly concluded as discharge of statutory or regulatory functions, thereby not leviable to GST, in the absence of contractual relationship.

Fate of affiliation by foreign universities

With the growing number of Indian colleges affiliating with foreign universities, the affiliation fees paid to such universities could be seen as an import of service, thereby attracting GST under Reverse Charge Mechanism. However, the position is not straightforward -

- a. If affiliation is held as a non-taxable or sovereign function or statutory or regulatory function, levy itself doesn't apply.
- b. If the foreign university isn't recognized under Indian law, the affiliation may not be legally valid—raising additional regulatory and GST concerns.

Concluding remarks:

The GST treatment of affiliation fees remains a grey area. While courts tend to adopt a broader, purposive view, authorities continue to apply a strict literal approach—causing uncertainty. There is a pressing need for clarity through a judicial verdict or CBIC circular to ensure consistent and fair tax treatment in the education sector.

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[1] Statutory body constituted under the University Grants Commission Act, 1956

[2] UGC (Affiliation of Colleges by Universities) Regulations, 2009

[3] Inserted vide [notification No. 08/2024- Central Tax \(Rate\)](#) dated 08-10-2024

[4] Central Government; State Government; Union Territory; Local Authority; Governmental Authority; and Governmental Entity

[5] [2006 \(2\) S.T.R. 321](#) (Ker.)

[6] Notification No. 12/2017–Central Tax (Rate) dated 28-06-2017 (as amended from time to time)

[7] Clause (y) of notification No. 12/2017 *ibid*

[8] *Principal and Others v. Presiding Officer and Others* [(1978) 1 S.C.C. 498]; *Chairman, Bhartia Education Society v. State of Himachal Pradesh* [(2011) 4 S.C.C. 527]; *Maharishi Markandeshwar Medical College and Hospital v. State of Himachal Pradesh* [(2017) 6 S.C.C. 675]

[9] [\[TS-391-HC-2021\(MAD\)-ST\]](#)

[10] [\[TS-297-HC-2024\(KAR\)-ST\]](#)

[11] Merriam-Webster

[12] [\[TS-559-HC\(TEL\)-2023-GST\]](#)

[13] [2021 \(46\) G.S.T.L. 245](#) (Guj.)

[14] (2016) 7 SCC 615

[15] (2011) 8 SCC 737

[16] [\[TS-391-HC-2021\(MAD\)-ST\]](#)

[17] (1978) 1 SCC 498

[18] *Sree Ramu College of Arts and Science; Texcity Arts and Science College; Dr. MGR Medical University and Pondicherry University* [\[TS-607-HC\(MAD\)-2023-GST\]](#)

[19] The advance ruling is binding only in respect of the parties involved in such transaction and for the matter referred. It has no precedent value. Though it provides an insight into the departments' view.

[\[20\]](#) 2018 (361) ELT 577 (SC)

[\[21\]](#) [1990 \(47\) E.L.T. 500](#)

[\[22\]](#) [\[TS-131-SC-2021-NT\]](#)

[\[23\]](#) W.P. No. 23672 of 2011 decided on 19-10-2012 [Madras High Court]

[\[24\]](#) [\[TS-297-HC-2024\(KAR\)-ST\]](#)

[\[25\]](#) 2021-TIOL-888-HC MAD-ST

[\[26\]](#) 2018 (9) GSTL 372 (Bom)

[\[27\]](#) (2002) 4 SCC 57

[\[28\]](#) [\[TS-255-HC\(BOM\)-2025-GST\]](#)

[\[29\]](#) [\[TS-297-HC-2024\(KAR\)-ST\]](#)

[\[30\]](#) [\[TS-814-SC-2022\]](#)