

**RAJASTHAN AUTHORITY FOR ADVANCE RULING****GOODS AND SERVICES TAX****KAR BHAWAN, AMBEDKAR CIRCLE,****NEAR RAJASTHAN HIGH COURT****JAIPUR - 302005 (RAJASTHAN)****ADVANCE RULING NO. RAJ/AAR/2022-23/16, Dated 11th November, 2022**

Umesh Kumar Garg Joint Commissioner	:	Member (Central Tax)
M. S. Kavia Additional Commissioner	:	Member (State Tax)
Name and address of the applicant	:	M/s University of Kota, Near Kabir Circle, MBS Marg, Kota-324005 (Rajasthan)
GSTIN of the applicant	:	08AAAJU0362K1ZX
Clause(s) of Section 97(2) of CGST/SGST Act, 2017, under which the question(s) raised	:	(a) Classification of any goods or services or both;  (e) determination of the liability to pay tax on any goods or services or both
Date of Personal Hearing	:	29.08.2022
Present for the applicant	:	CA, Sanjiv Agarwal & CA Neha Somani  (Authorized Representatives)
Date Of Ruling	:	11.11.2022

Note: Under Section 100 of the CGST/SGST Act, 2017, an appeal against this ruling lies before the Appellate Authority for Advance Ruling constituted under section 99 of CGST/SGST Act, 2017, within a period of 30 days from the date of service of this order.

At the outset, we would like to make it clear that the provisions of both the CGST Act and the SGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the SGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, a reference to such a similar provision under the CGST Act / SGST Act would be mentioned as being under the "GST Act".

The applicant M/s University of Kota, Near Kabir Circle, MBS Marg, Kota-324005 (Rajasthan) (hereinafter the Applicant) being a registered person (GSTIN is 08AAAJU0362K1ZX) as per the declaration given by him in Form (ARA-01) the issue raised by the applicant is neither pending for proceedings nor proceedings were passed by any authority. The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs. 5,000/-each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017

The appellant i.e M/s University of Kota, Near Kabir Circle, MBS Marg, Kota-324005 (Rajasthan) has raised the following question for advance ruling in the application for Advance Ruling filed by it.

Whether the services provided by the University of Kola relating to affiliation granted to colleges for imparting education is a supply of service liable to levy of GST under the CGST Act, 2017? If yes, whether amount collected by way of affiliation fee, are exempted vide S.No 66 of Notification No.12/2017-CT (Rate) dated 28.06.2017?

**A. SUBMISSION OF THE APPLICANT:(in brief)**

1)The Applicant that University of Kota, enacted under Special Act of State Legislative Assembly thus the Applicant has been established by Government of Rajasthan through an Act (No. 14 of 2003) of Rajasthan legislature i.e., University of Kota Act, 2003 and notified vide State Government Gazette No. F.2(12)/ Vidhi-2/2003 dated 7th June, 2003.The is engaged in providing services of education including affiliation to various self-financing/non-Government colleges under its jurisdiction as per the education policy of the State Government. The Applicant is also registered under section 12AA of the Income Tax Act, 1961 and engaged in charitable activities as per entry No. 4 of the Notification No. 25/2012-ST dated 20.06.2012.

2) The applicant grants recognition to the colleges under its jurisdiction and collects affiliation fee as approved by the State Government. By virtue of such affiliation colleges are able to impart education to students. The admissions to colleges are done under University of Kota only and the applicant is the university which conducts exam, issuing mark sheets, declares results, and award degrees.

The applicant further submitted that-

1. That the Applicant is one of the Universities created and set-up by Government of Rajasthan by a Special Act of State Assembly (the University of Kota Act, 2003) for furtherance of learning's and research in various branches of education. The setting up of the University to controlling of account and finances including deputation of officers is done by the State Government. Not only this, even the mark sheet and degrees are issued and awarded by the University and not by the college. This implies that applicant is an instrument of State Government.

2. That the main fees, i.e., affiliation fee charged by the applicant from various self-financing/ non-government colleges / government colleges as decided by the Affiliation Fee Committee which varies from course to course for which affiliation is provided and notified by the university with copies to education department etc.

3. University of Kota is a Government sponsored University and not meant to earn profit and is only for the sole purpose of education. Further, all the Government Universities are taking affiliation fees from all the educational institutes under its ambit and this is nothing but part of fees received towards providing services to students in from of recognized course certificate. Therefore, it falls in the ambit of Service provided by an educational institution to its students, faculty and staff which are exempt from Goods and Service Tax (Sr. No 66 of notification No. 12/2017-GST dated 28.06.2017).

4. That the University of Kota is also exempted under Section 10(23c)(iii) and is also registered under Section 12AA of Income Tax Act. Hence, the same is also exempt as per Sr. No 1 of Exemption Notification No. 12/2017- CT (Rate) dated 28.06.2017.

5. As per clause 9 of the University of Kota Act, 2003 officers and authorities of the Applicant shall include:-

(a) Officers of the University:

(b) Authorities of the University:-

(i) The Board of Management

(ii) The Academic Council

(iii) The Faculties

(iv) The Board of Studies and

(v) such other authorities as may be declared by the Statutes to be the authorities of the University

6. As per clause 10 of the University of Kota Act, 2003 the Chancellor shall include:-

(1) The Governor of the State of Rajasthan shall be the Chancellor of the University. He shall by virtue of his office, be the head of the University and shall when present preside at the convocations thereof.

(2) The Chancellor shall have such other powers as may be conferred on him by this Act or the Statutes made there under

7. As per clause 14 of the University of Kota Act, 2003 Comptroller shall:-

(1) The Comptroller shall be the principal finance accounts and audit officer of the University. He shall work directly under the control of the Vice-Chancellor.

(2) Notwithstanding anything contained in this Act or any other law for the time being in force the Comptroller shall be appointed by the State Government on deputation from amongst officers of the Rajasthan Accounts Service.

(3) The Comptroller shall:-

(i) Advise in regard to the financial policy of the University and be responsible for the preparation of its budget and for the presentation thereof to the Board through the Vice - Chancellor.

(ii) Manage the properties, movable and immovable, and investments of the University.

(iii) Keep all moneys belonging to the University in a schedule bank Ltd or Central Co-operative Bank except the amounts needed as imprest cash (to be prescribed by the Vice-Chancellor) in transacting business of the University.

(iv) Ensure that no expenditure not authorized in the budget is incurred by the University otherwise than by way of investment.

(v) Disallow any expenditure which may contravene the terms of any statute or for which provision is required to be made by statute but has not been made; and

(vi) Ensure the compliance of the provisions of section-34.

8. As per clause 19 in relation to constitution and composition of the Board of Management, provides that:-

(1) The Board of Management shall be the highest executive body of the University and shall consist of the following members, namely:-

(I) The Vice-Chancellor of the University - Chairman

(II) Ex-officio Members:-

(i) The Secretary to the Government of Rajasthan, Finance Department; (Government of Rajasthan representative)

(ii) The Secretary to the Government of Rajasthan Higher Education Department (Government of Rajasthan representative)

(iii) The Director of College Education Rajasthan; and (Government of Rajasthan representative)

(iv) The Registrar of the University, Member Secretary (Government of Rajasthan representative)

Explanation: Ex-officio members mentioned at (i) to (ii) shall include their respective nominees who shall not be below the rank of Deputy Secretary to the Government of Rajasthan.

(III) Nominated Members:-

(i) Two person nominated by the Vice-Chancellor from amongst the Deans for one year;

(ii) Two University Professors nominated by the Vice-Chancellor for one year;

(iii) Two eminent educationists to be nominated by the Chancellor for three years;

(iv) Two Principals of affiliated colleges, one from the Government colleges and another from Private Colleges, to be nominated by the State Government for one year;

(v) Two members of state legislature to be nominated by the State Government for three years; and

(vi) Two eminent educationists to be nominated by the State Government for three years.

(IV) Elected members:

Two teachers of the University or its constituents' colleges who have put in not less than seven years teaching experience in any institution of higher education in Rajasthan on 1st January immediately preceding the year in which elections are held, other than University Professors, Deans, Directors of the Colleges of the University to be elected by the teachers of the University and its constituent colleges from amongst themselves for three years.

Conferment of autonomous status, of the Colleges under affiliation of the University - As per clause 26 of the University of Kota Act, 2003, which is reproduced as under:

'(1) An affiliated college or a recognized institution or a University Department may be conferred the autonomous status by the University in the matter of admission: of students, prescribing the courses of studies imparting, instructions and training, holding of examinations and powers to make necessary rules for the purpose'

9. As per clause 34 of the of the University of Kota Act, 2003 provides that:

(34) Control of the State Government - Where the State Government funds are involved the University shall abide by the terms and conditions attached to the sanction of such funds which may inter alia include prior permission of the State Government in respect of the following namely:-

(a) Creation of the new posts of teachers, officers or other employees;

(b) Revision of the pay, allowances, post -retirement benefits and other benefits to its teachers' officers and other employees;

(c) Grant of any additional / special pay, allowance or other extra remuneration of any description whatsoever, including ex-gratia payment or other benefits having financial implications to any of its teachers, officers or other employees

(d) Diversion of any earmarked funds other than the purpose for which it was received;

(e) Transfer by sale lease mortgage or otherwise of immovable property;

(f) Incur expenditure on any development work from the funds received from the State Government for any purposes other than for which the funds are received;

(g) Take any decision regarding affiliated colleges resulting in increased financial liability direct or indirect for the State Government.

Explanation: The above conditions shall also apply in respect of the posts created from any other fund. Which may in long term likely to cause financial implications to the State Government.

10. As per clause 35 of the University of Kota Act, 2003 provides that:

35. Assumption of financial control by the State Government as emergency measure-If the State Government is satisfied that owing to mal-administration or financial mismanagement in the University a situation has arisen whereby financial stability of the University has become insecure, it may, by a notification, declare that the finances of the University shall be subject to the control of the State Government and shall issue such other direction as it may deem fit for the purpose and the same shall be binding on the University.

11. As per clause 44 of the University of Kota Act, 2003 provides that:-

#### **44. Accounts and audit**

(1) The annual accounts and balance sheet of the University shall be prepared by the Comptroller under the direction of the Vice-Chancellor and moneys accruing to or received by the University from whatever source and all amounts disbursed or paid shall be entered in the accounts.

(2) Such accounts shall be audited in the prescribed manner by such auditors as the State Government may direct and the cost of such audit shall be a charge on the University fund.

(3) The accounts when audited shall be printed and copies thereof together with the audit report shall be submitted by the Vice-Chancellor to the Board which shall forward them to the State Government with such comments as may be deemed necessary.

12. That UOK is not a commercial organization operating with the objective of earning profit and on commercial terms to attract levy of service tax UOK is a creature of law set up by Government of Rajasthan under the special Act, viz, UOK Act, 2003 and duly notified in the Gazette of the State. The objectives of setting up of UOK are to impart education and research through constituent and affiliated colleges. The management, operations, working and accounts, all are controlled by the State Government with the 'Chancellor' being the Governor of the State. Admission, examination leading to degree for all the students enrolled with the University through different colleges all are facilitated or conducted by UOK. There is a common examination conducted by UOK for all the courses. It is a fact that no college can operate on its own unless it is affiliated to any University, UOK in this case. It is therefore submitted that UOK is very much engaged in education related services and hence there is no Service Tax liability.

13. That the UOK is engaged in provision of education related services through its affiliated colleges which cannot provide such services on a standalone basis as per the scheme of education applicable in India. Such affiliation is also recognized by UGC. The courses offered for which fees is collected are approved by University.

14. In lieu of affiliations granted to colleges, applicant charges affiliation fee on annual basis as approved by the affiliation fee committee and notified by the University. The said affiliation fee was an exempt taxable service vide entry No. 9 of Notification No. 25/2012-ST dated 20.06.2012.

15. Since the applicant is providing services in relation to pure education and is not a commercial concern, it is of bonafide belief that such affiliation fee is also not liable to levy of GST under GST Act for the reasons that:-

- a) It is an extended arm of State Government
- b) The service, if any are in relation to providing education which is an exempt service
- c) The affiliation is a necessity of law and education policy of the State Government and the applicant is only discharging this function.
- d) The applicant is covered under exemption vide 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. This exemption makes it amply clear that services in relation to education is exempt from levy of GST.

16. The applicant is under a bonafide doubt and confusion as to whether affiliation fee is liable to GST or is covered under aforesaid Notification. The applicant therefore, seeks direction in guidance by way of the present application.

### **B Interpolation and understanding of applicant on question rose (in Brief)**

1) The applicant submitted that they are eligible to sought advance ruling on the issues, under subsection © of Section 95 & Section 97(2) of the CGST Act.

2)The applicant contended that the activities of UOK which are in relation to education and an integral part thereof as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force which is covered under clause 66 of N.No. 12/2017-CT (Rate) dated 28.06.2017 under exemption notification in light of Definition of educational institution under Section 2(y) of N.No. 12/2017-CT dated 28.06.2017-

(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 recognized by any law for the time being in force;

(iii) education as a part of an approved vocational education course;

2) The applicant further submitted that UOK is a University set up by the Government for the sole purpose of providing education to students in the State. Further, all the Government universities are allowed to grant affiliation against affiliation fees from colleges imparting education to students on behalf of Universities as they cannot directly cater to the students. Even the mark sheets and degree certificates are granted by University and not the respective colleges. Without affiliation, the colleges cannot operate and provide educational services; hence it is clear that Affiliation or recognition is the mandatory condition to be fulfilled by the colleges for imparting education. Also, the Affiliation fees are paid out of the fees collected from students and not by operating any other object/trade; that services provided by applicant clearly fall under clause 66 of N.No. 12/2017-CT (Rate) dated 28.06.2017 under exemption notification as education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force and Affiliation fees' so collected fall under Educational Services as provided in the Exemption Notification and should be allowed to the Applicant under Notification No. 12/2017-CT (Rate) dated 28.06.2017.

3) Applicant emphasis on the word in relation to and claimed that affiliation services, if any, shall fall within the scope of entry No. 66 in one or more of the following clause:-

Services provided -

(a) by an educational institution to its students, faculty and staff;

.....

(b) to an educational institution, by way of, -

.....

(iv) services relating to admission to, or conduct of examination by, such institution:

'Services relating to admission to, or conduct of examination by, such institution' comes from affiliation which is a pre-requisite for such institutions to carry on the activity of education to students. Affiliation fee is nothing but part of fees received towards providing services to students in form of recognized courses leading to award of recognized degrees etc. by colleges.

Further, the affiliation fee collected by University are in the nature of statutory levies. The applicant is only discharging a statutory function and the fees collected by applicant cannot be amenable to levy of GST.

4) further, applicant stated that interpretation of 'in relation to' the phrase 'in relation to' signifies the importance of the qualifying activity which in this case is education and it expands the scope that not only the main activity will be covered but other ancillary or auxiliary services will also be covered which are in relation to main activity.

5) The Applicant would rely on the following judicial pronouncements in this regard, i.e., meaning of 'relating to':-

a) In *Touraids (I) Travel Services v. CCE* (2014) 47 GST 300; (2014) 35 STR 234; 48 taxmann.com 235 (Allahabad),

b) In *Hero Motocorp Ltd. v. CST, Delhi* (2013) 32 STR 371 (Cestat, New Delhi),

c) In *National Engineering Industries Ltd. v. CCE, Jaipur* (2013) 31 STR 107 (Cestat, New Delhi),

d) In *State of Karnataka v. Azad Coach Builders Pvt. Ltd.* (2010) 262 ELT 32 (SC), content and ought not be so construed".

e) In *Delhi High Court in Home Solutions Retail India Ltd v. Union of India & Other* (2009) 14 STR 433 (Delhi)

f) In *All India Fedn. of Tax Practitioners v. Union of India* (2007) 7 STR 625 (SC),

g) In *Tamilnadu Kalyana Mandapam Association v. Union of India* (2006) 3 STR 260; (2006) 4 STT 308 (SC),



h) In CCE Mumbai IV v. CKP Mandal (2005) 180 ELT 471; (2005) 1 STT 28; (2006) 3 STR 449 (Cestat, Mumbai),

i) In Doypack Systems Pvt. Ltd. v. Union of India AIR (1988) SC 782, 800; Swadesh Cotton Mills Co. Ltd.

j) In Navin Chemicals Mfg. and Trading Co. Ltd. v. Collector of Customs, (1993) 4 SCC 320, 324. (Customs Act, 1962)

6) Further Applicant submitted more submission vide letter 29.08.2022 at the time of P.h and refer the Circular No. 177/09/2022-TRU dated 03.08.2022 along with judicial pronouncement of various court of Law and contended that all the services supplied by an educational institute to its student are exempt from GST. The applicant relied on the fact that the affiliation fees collected by them is actually recovered from the fees of students thus its an supply of service to students.

7) Applicant Contended that In view of the facts as enumerated by them, statutory provisions, exemption notification and interpretation thereof, the applicant is of the opinion that the activity of affiliation to college is nothing but a statutory function and an educational service in relation to education to its students and educational institutes, more particularly w.e.f. 25.01.2018. Even otherwise the exemption is covered under clause (a) of S.No. 66 of Notification No. 12/2017-CT (Rate) dated 28.06.2017.

### **C. Question(s) on which advance ruling is sought**

Q.1 Whether the services provided by the University of Kota relating to affiliation granted to colleges for imparting education is a supply of service liable to levy of GST under the CGST Act, 2017 ? It yes, whether amount collected by way of affiliation fee, are exempted vide S.No 66 of Notification No.12/2017-CT(Rate) dated 28.06.2017?

### **D. PERSONAL HEARING**

In the matter personal hearing was granted to the applicant on 29.08.2022. On behalf of the applicant CA, Sanjiv Agarwal& CA Neha Somani(Authorized Representatives) appeared for PH. During the PH, they reiterated the submissions already made in the application. Applicant made additional submission on 29.08.2022.

### **E. COMMENTS OF THE JURISDICTIONAL OFFICER**

In the matter, Joint Commissioner, SGST Circle E, Kota has submitted his comments vide letter JC/ST/E/ Kota/2022/149/ dated 22.06.2022 that affiliation fees collected by applicant from various colleges is taxable @ 18% under SAC Code 9997.

### **F. FINDINGS, ANALYSIS & CONCLUSION:**

1) We have carefully examined the statement of facts, supporting documents filed by the Applicant along with application, oral and written submissions made at the time of Virtual hearing and the comments of the Central Tax Authority. We have also considered the issues involved, on which advance ruling is sought by the applicant, and relevant facts. We would

like to discuss the submission made by applicant and will take up the above question for discussion one by one.

2) The applicant is a University established under the University of Kota Act, 2003. Applicant undertake activities related to affiliation of colleges as affiliated, professional or post graduate colleges under conditions prescribed and to withdraw affiliation from colleges; to approve colleges providing course of study for admission to the examinations for titles and diplomas of the University under conditions prescribed and to withdraw such approval; to designate any college as an autonomous college with the concurrence of the Government in the manner and under conditions prescribed and to cancel such designation and collect various fees in this regard from the institutions; to collect affiliation fee charged by the applicant from various self-financing/ non-government colleges / government colleges as decided by the Affiliation Fee Committee which varies from course to course for which affiliation is provided and notified by the university with copies to education department etc. The applicant has sought ruling on the following question: whether the services provided by the University of Kota relating to affiliation granted to colleges for imparting education is a supply of service liable to levy of GST under the CGST Act, 2017? If yes, whether amount collected by way of affiliation fee, are exempted vide S.No 66 of Notification No.12/2017-CT (Rate) dated 28.06.2017.

3) It is stated by the applicant that in the Pre-GST regime, affiliation fee was an exempt taxable service vide entry No. 9 of Notification No. 25/2012-ST dated 20.06.2012. Applicant has raised the question on the eligibility of the Notification to the service supplied by them. Therefore, the application is admitted and the question for which ruling is sought is taken up for decision.

4) We observe that The facts of the case as seen from the records before us is that the applicant is a University established with the object - to affiliate colleges to the University as affiliated, Professional or postgraduate colleges under conditions prescribed and to withdraw affiliation from colleges); to approve colleges providing courses of study for admission to the examinations for titles and diplomas of the University under conditions prescribed and to withdraw such approval. It is stated that applicant collect affiliation fees from the Institutions who seek affiliation.

5) It is the contention of the applicant that "affiliation" is the exempted supply with purpose to the colleges for admission of students and/ or conduct of examinations for the purpose of getting a degree and therefore the exemption provided under SI.No. 66(b){iv} of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 as amended by Notification No.2/2018 with effect from 25.01.2018 is applicable to the said supply.

6) The applicant claims that the services extended by them are the 'services provided to an educational institution by way of services relating to admission to, or conduct of examination by, such institution' and effective from 25.01.2018, i.e. after the words 'upto higher secondary' stands omitted as per entry ( o ) (ii) (A) of Notification 2/2018 in the entry 66(b)(iv) of the Notification 12/2017-C.T.(Rate), their activity of affiliation merits exemption under the said entry. It is their contention that the fees collected & the activities undertaken towards affiliation of the institution, course, extension of course, etc are services provided to 'educational institutions', 'in relation to' admission & conduct of examination in as much as the institution cannot admit a student without affiliation and the student cannot take the examination unless he is registered with the university through the college as per the Kota University Act 2003

7) We observe that the whole claim is based on entry at SI.No.66 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 which exemption is claimed and we will take up it for analysis.

follows:-

The relevant extract of entry No. 66 of exemption notification reads as under:

"Services provided:

(a) by an educational institution to its students, faculty and staff;

(b) to an educational institution, by way of, -

Transportation of students, faculty and staff;

catering, including any mid-day meals scheme sponsored by the Government;

Security or cleaning or house-keeping services performed in such educational institution;  
Services relating to admission to, or conduct of examination by, such institution upto higher secondary (upto 24.01.2018)

The above entry is amended by Notification No. 02/2018-C.T.(Rate) dated 25.01.2018 and the amendment is as under:

Accordingly, w.e.f. 25.01.2018 (as amended vide Notification No. 2/2018-CT (Rate) dated 25.01.2018), the entry 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,-

(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 house-keeping services performed in such educational institution;

(iv) services relating to admission to, or conduct of examination by, such institution:

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 pre-school education and education up to higher secondary school or equivalent.

Provided further that nothing contained in sub-item (iv) 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;

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

(v) supply of online educational journals or periodicals:

By the amendment made w.e.f. 25.01.2018, the words 'upto higher secondary' were omitted in clause (b) (iv).

8) In this regard, it is pertinent to examine the comments of the Fitment Committee as seen in the agenda notes placed before the 25th meeting of the GST Council and the minutes of the said meeting as the decision of the said meeting was effected vide Notification No. 2/2018-C.T.(Rate) dated 25.01.2018. Reference to the discussions and the decisions of the GST Council, a Constitutional Body, is to understand the intention of the amendment. The relevant recommendation of the 'Fitment Committee' accepted by the Council as under-"To exempt services relating to admission to, or conduct of examination provided to all educational institutions, as defined in the notification. To exempt services by educational institution by way of conduct of entrance examination against consideration in the form of entrance fee is given below for ease of reference:"

9) From the above, it can be seen that the amendment was proposed to exempt services relating to admission to, or conduct of examination for admission to all educational institutions, as defined in the notification (definition 2(y) of Notification No. 12/2017-CT(R)). Thus the entry at 66(b)(iv) seeks to exempt only those services provided to such institution in relation to admission of students or conduct of examination for such admission to all the educational Institutions, including the higher educational institutions, which were not exempted up to this amendment

10) We have gone through the judicial pronouncements of various judicial authority pertains to phrase "in relation to". We have also gone through the decisions of various courts submitted by applicant on dated 29.08.2022. We found that none of pronouncement submitted by applicant in his favors squarely covers the present question of law in respect of applicability of GST on affiliation fees. Further we find that all the case laws are relating to erstwhile service tax Act and provisions of Service Tax Act cannot be equated to GST Act and entirely different so not applicable in the instant case.

11) Now we would like to discuss the clarification circular quoted by the applicant. The relevant portion of clarification made under Circular No. 177/09/2022-TRU dated 3.08.2022 is as under-: Applicability of GST on application fee charged for entrance or the fee charged for issuance of eligibility certificate for admission or for issuance of migration certificate by educational institutions Circular No. 177/09/2022-TRU,-

"4.1 Representations have been received regarding applicability of GST on application fee charged for entrance or the fee charged for issuance of eligibility certificate for admission or for issuance of migration certificate by educational institutions.

4.2 In this regard, it is stated that educational services supplied by educational institutions to its students are exempt from GST vide entry 66 of the notification No. 12/2017 Central Tax (Rate) dated 28.06.2017 relevant portion of which reads as under, -"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;]..."

4.3 Therefore, it can be seen that all services supplied by an 'educational institution' to its students are exempt from GST. Consideration charged by the educational institutes by way of entrance fee for conduct of entrance examination is also exempt. The exemption is wide enough to cover the amount or fee charged for admission or entrance, or amount charged for application fee for entrance, or the fee charged from prospective students for issuance of eligibility certificate to them in the process of their entrance/admission to the educational institution. Services supplied by an educational institution by way of issuance of migration certificate to the leaving or ex-students are also covered by the exemption. Accordingly, such activities of educational institution are also exempt.

4.4 Accordingly, it is clarified that the amount or fee charged from prospective students for entrance or admission, or for issuance of eligibility certificate to them in the process of their entrance/admission as well as the fee charged for issuance of migration certificates by educational institutions to the leaving or ex-students is covered by exemption under SI. No. 66 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017."

12) On examination of above said clarification we don't found that affiliation fees so collected by applicant from its affiliated colleges is exempt. Further we would like to refer Circular No. 151/07/2021-GST dated 17.06.2021 regarding Clarification regarding GST on supply of various services by Central and State Board (such as National Board of Examination) wherein it is clarified at SI.4 (iii) that 18% GST will be applied to other services. Relevant portion is as under-"4. Taking into account the above, the GST Council has recommended, to clarify as below: (i) GST is exempt on services provided by Central or State Boards (including the boards such as NBE) by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution [under S. No. 66 (aa) of not if No. 12/2017-CT(R)]. Therefore, GST shall not apply to any fee or any amount charged by such Boards for conduct of such examinations including entrance examinations.-

(ii) GST is also exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing Circular No. 151/07/2021-GST of notification for examination, admit card and questions papers etc, when provided to such Boards [under S. No. 66 (b) (iv) of not if No. 12/2017- CT(R)].

(iii) GST at the rate of 18% applies to other services provided by such Boards, namely of providing accreditation to an institution or to a professional (accreditation fee or registration fee such as fee for FMGE screening test) so as to authorize them to provide their respective services which is more relevant in the matter."

13) We observes that the affiliation fees under the general functions by the University to colleges regarding approval for a college, approval for a course, start-up approval, permanent affiliation, continuation of affiliation for each course, permission for increase in intake for each course and penal fee for Late Application and such collection of fees appeared to be not relating to admission to or conduct of examination, by such institution. These services would not fall

under the ambit of the exemption provided in the said Notification. Also, as per the wording of the Notification only the services relating to admission or to conduct examination, by such institution i.e only the services relating admission of students or conduct of examination is exempted and the other above services are chargeable to applicable GST.

14) We further observe that as per the definition of affiliation under regulation, affiliation in relation to a college is an activity to recognize such college to the privileges of the university to which the institution is affiliated. In other words, the activity of affiliation is to monitor whether the institution possess the required infrastructure in terms of Space, Technical prowess, financial liquidity, faculty strength, 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.

15) In the case at hand, it is evident that the affiliation services provided by the applicant enables the said institution to conduct the course/programme and do not relate to admission of students to such course/programme in the said institutions or conduct of examination for such admission in the said institution. Also, the exempted services on the conduct of examination is that related to the admission to such institution and not related to the examination based on which degree/title, etc are conferred to the students, as is being claimed by the applicant, though we do not part any opinion on the claim of the applicant that they extend such services to the institutions by extending the affiliation. Therefore, we hold that 'affiliation' fees so collected by the applicant is not exempted under the entry SI.No.66 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 as amended.

In view of the foregoing, we rule as follows: -

### **RULING**

#### **(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Rajasthan Goods and Services Tax Act, 2017)**

**Q.1:** whether the services provided by the University of Kota relating to affiliation granted to colleges for imparting education is a supply of service liable to levy of GST under the CGST Act, 2017 ? It yes, whether amount collected by way of affiliation fee, are exempted vide S.No 66 of Notification No. 12/2017-CT (Rate) dated 28.06.2017.

**Ans.1:** The affiliation provided by the Kota University to its constituent colleges for imparting education is a supply and taxable under GST. The amount collected by way of affiliation fees is not exempted vide SI.No. 66 Notification No.12/2017-CT (Rate) dated 28.06.2017as amended.

11/11/2022

(Umesh Kumar Garg)	(M. S. KAVIA)
Member	Member
Central Tax)	(State Tax)