

**IN THE HIGH COURT OF BOMBAY AT GOA****WRIT PETITION NO.723/2024**

GOA UNIVERSITY,  
Through its Registrar,  
Mr. Vishnu Sakharam Nadkarni,  
57 years of age, Having Office at,  
Administrative office, Goa  
University,  
Taleigao Plateau, Tiswadi  
North Goa, Goa-403206.

... PETITIONER

***Versus***

1. JOINT COMMISSIONER OF  
CENTRAL GOODS AND SERVICE  
TAX, Goa Commissionerate, 1st  
Floor,  
GST Bhawan, EDC Complex, Pattro  
Panjim, Goa-403001.

2. CENTRAL BOARD OF INDIRECT  
TAXES & CUSTOMS, R.No.227-B,  
CBIC, NTC House, 3rd Floor,  
Department of Revenue, North  
Block,  
New Delhi - 110 001.

3. GOODS AND SERVICES TAX  
COUNCIL, GST COUNCIL  
Secretariat, 5th Floor, Tower II,  
Jeevan Bharti Building, Janpath  
Road,  
Connaught Place, New  
Delhi-110 001.

... RESPONDENTS

Mr Raghuraman, Senior Advocate with Mr Gauravvardhan Nadkarni, Mr Jay Mathew, Mr B. Murthy, Mr Raghavendra C. R., Advocates for the Petitioner.

Ms Asha Desai, Senior Standing Counsel for the Respondents.

**CORAM:**

**M. S. KARNIK &  
NIVEDITA P. MEHTA, JJ.**

**RESERVED ON: 10<sup>th</sup> FEBRUARY 2025  
PRONOUNCED ON: 15<sup>th</sup> APRIL 2025**

**JUDGMENT: (Per M. S. Karnik, J.)**

1. This petition by the Goa University under Article 226 of the Constitution of India challenges a show cause notice dated 05.08.2024 issued by respondent no.1 - Joint Commissioner of Central Goods and Service Tax (CGST), Goa Commissionerate, proposing to demand GST on the educational activities of the petitioner University. During the pendency of the petition and after the matter was heard, the respondent no.1 heard the show cause notice and passed order in original under Section 74 of the GST Act dated 28.01.2025 which is also impugned pursuant to an amendment to this petition. The petitioner is also challenging the validity and legality of the Circular dated 17.02.2021 and paragraph 2 of the Circular dated 11.10.2021, both circulars issued by the respondent no.2 - Central Board of Indirect Taxes and Customs. The petitioner is also challenging the legality of paragraph 6(ii) of the Press Note dated 09.09.2024 issued to

summarize recommendations made in the 54<sup>th</sup> meeting of the GST Council.

2. No doubt, the petitioner has a remedy to challenge order in original as is the objection of the learned counsel for the respondents. However, we are examining this petition in the context of absence of jurisdictional facts to issue the impugned show cause notice. If we hold against the petitioner on this aspect, then obviously the petitioner has to avail of the remedy provided under the Central Goods and Service Tax Act, 2017 (GST Act for short) to challenge the order in original.

The facts relevant to a decision in this writ petition are as under :-

3. The petitioner - Goa University is a University established under the Goa University Act, 1984 (University Act for short). The University is set up for providing higher education in the State of Goa.

4. A show cause notice dated 28.03.2018 was issued to the University demanding service tax on affiliation fee by the Deputy Director, DGGI, Goa. On the basis of the reply filed by the Petitioner University, the show cause notice proceedings were dropped vide an Order dated 10.04.2019 passed by the Assistant Commissioner, Central GST, Div-II, Goa. The University obtained GST

registration bearing GSTIN No. 30AAJG1189Q1Z1 and is under the administrative control of Central Tax Authorities. The University has been remitting GST on the rent received from third parties and also filing returns on regular basis. The University provides higher education in the State of Goa offering both degrees, for graduation and post-graduation programme. The University, in terms of the statutory scheme, has granted affiliation to around 67 colleges in the State of Goa and has collected 'affiliation fee'.

5. The Superintendent of CGST, Goa vide email dated 09.01.2024 requested for submission of report on the payment of GST by the education boards on affiliation services. The University vide email dated 10.01.2024 replied to the above referred email stating that the University has not charged GST on affiliation fees received from the colleges. The Superintendent, CGST Goa, vide email dated 17.01.2024 requested the University to provide the list of colleges/institutions to which affiliation is given along with copy of sample invoices. All details were furnished by the University vide its email dated 18.01.2024 regarding the affiliation fee received from various colleges for the academic year 2023-24.

6. On verification of the details, the office of the Superintendent of CGST, Goa requested the Petitioner University to submit a detailed report as to why GST was not paid by them on affiliation fees collected. The University vide its email dated 24.01.2024 submitted that the Affiliation fees collected by them for various programmes are meant for students and treated as student related activity and hence the University has not charged GST on affiliation fee. Further details were sought by respondent no.1 about the total amount of affiliation fee collected along with the list of colleges and any other miscellaneous income collected during the period from July 2017 to March 2024. The University submitted all the relevant details about the amount of affiliation fees collected from the various colleges affiliated to it and also submitted that there was no miscellaneous income collected to the affiliation fees collected.

7. The Assistant Commissioner of CGST, Goa, issued the intimation of tax in form DRC-01A under section 74(5) of CGST Act dated 27.05.2024 for the period 2017-2024 demanding the GST payable on affiliation services amounting to Rs.1,90,30,494 (Rupees One Crore Ninety Lakh Thirty Thousand Four Hundred Ninety-Four Only) along with the applicable interest and penalty. The University vide letter dated 10.06.2024 replied to the

demand, denying the tax demand as the demand is based on the exempted supplies.

8. The University was asked to submit the financial documents and provide explanation vide letter dated 22.07.2024. The University vide email dated 30.07.2024 furnished the financial documents/details as requested by the office of the Superintendent of CGST, Goa.

9. The respondent no.1 by the impugned show cause notice under Section 74 of the CGST Act called upon the University as to why GST of Rs.4,83,59,747/- (Rupees Four Crore Eighty-Three Lakh Fifty-Nine Thousand Seven Hundred Forty-Seven Only) (CGST of Rs. 2,41,79,873.50/- and SGST of Rs.2,41,79,873.50/-) on the taxable value of Rs. 27,45,33,672/- (Rupees Twenty-Seven Crore Forty-Five Lakh Thirty-Three Thousand Six Hundred Seventy-Two Only) should not be demanded and recovered from the University in terms of Section 74 (1) of CGST Act, 2017 read with Goa GST Act, 2017 along with applicable interest and penalty. The University was asked to appear before respondent no.1 on 24.10.2024. The show cause notice is under challenge in this petition.

**Submissions of Mr Raghuraman, learned Senior Advocate for the Petitioner:**

10. The Petitioner is challenging the vires of the impugned circulars. The impugned show cause notice

issued by respondent no.1 is without jurisdiction as there is no jurisdiction under the legislation to charge GST on education related activities. The petitioner being a University set up under the Act by the State legislation does not fall under the ambit of 'Government' or 'local authority' and hence clause 2(17)(i) of the CGST Act, 2017 does not apply. The activities of the petitioner do not fall under the definition of business as set out in clause (a) to (c) of the Section 2(17) of the Act. The educational activities not being commercial in nature are not amenable to GST as the activities do not qualify to be supply of services. The educational activities carried out while imparting education cannot be termed as business under Section 2(17) because the same is not a trade, commerce, manufacture, profession, vocation or adventure. The fees, cess or any other consideration received by the creature of statute i.e. the Goa University Act, in furtherance of education are per se not 'consideration' to fall within the clutches of Section 7. The statutory functions and amounts collected under such statutes to provide certain facilities i.e. conducting examinations, awarding degrees cannot be brought to service tax. Further, acts incidental to such functions cannot also be brought to tax. The services provided (if any) are exempt from levy of GST under entry no.66 of Notification No.12/2017-CT (R) dated 28.06.2017.

11. The impugned circulars are challenged on the ground that they assume that the activity of affiliation/accreditation would amount to supply without clarifying as to how the same would be supply of service. The circulars which are contrary to statutory provisions have no existence. The impugned circulars restrict the scope of exemption notification. The levy of GST on affiliation fees, convocation fees and other fees through such impugned circulars is impermissible. The power to issue orders, instructions or directions is vested exclusively in the Central Board of Indirect Taxes and Customs (CBIC). Therefore, the circulars issued are without any authority of law. Under the provisions of service tax, the demands are dropped. The Respondents could not have then re-opened the issue as all relevant facts were in the knowledge of the authorities.

12. Learned Senior Advocate relied upon the following decisions in support of his submissions:

- (1) All India Federation of Tax Practitioners v/s. Union of India - 2007(7) STR 625.
- (2) Union of India v/s. VKC Footsteps India (P) Ltd. - 2021 130 taxmann.com 193 (SC).
- (3) Central Electricity Regulatory Commission, Delhi Electricity Regulation Commission v/s. ADGGI & Another - 2025 (1) TMI 887.

- (4) Sole Trustee, Lok Shikshana Trust v/s. CIT - (1976) 1 SCC 254.
- (5) T.M.A. Pai Foundation v/s. State of Karnataka - (2002) 8 SCC 481.
- (6) Unni Krishnan, J.P. v/s. State of A.P. - (1993) 1 SCC 645.
- (7) The Principal and Others v/s. Presiding Officer and Ors. - (1978) 1 SCC 498.
- (8) CTO v/s. Banasthali Vidyapith - (2015) 55 taxmann.com 462 (Rajasthan).
- (9) Visvesvaraya Technological University v/s. ACIT (2016) 68 taxmann.com 287 (SC).
- (10) Commissioner of Sales Tax v/s. Sai Publication Fund - (2002) 4 SCC 57.
- (11) Assistant Commissioner of Income Tax (Exemptions) v/s. Ahmedabad Urban Development Authority - (2023) 4 SCC 561.
- (12) Principal Additional Director General, DGGSTI v/s. Rajiv Gandhi University of Health Sciences - (2024) 22 Centax 526 (Kar.).
- (13) ICAI v/s. DGIT (Exemptions) - (2013) 358 ITR 91 (Delhi).
- (14) Sahitya Mudranalaya (P.) Ltd. v/s. Additional Director General - (2020) 115 taxmann.com 89 (Gujarat).
- (15) Madurai Kamaraj University v/s. Jt. Commr. of GST and CEX, Madurai - 2021 (54) GSTL 685 (Mad).

(16) Tamil Nadu Dr. MGR Medical University v/s. Pr. Addl. Director, DGSTI - (2022) 64 GSTL 475.

(17) Sandur Micro Circuits Ltd. v/s. CCE, Belgaum, 2008 (229) ELT 641 (SC)

(18) M/s Surana Telecom Ltd. v/s. Government of India in WP No.15312/2003 [Affirmed by Supreme Court in Tata Teleservices Ltd. v/s. Commissioner of Customs, 2006 (194) ELT 11 (S.C.)]

(19) Commissioner of C.Ex. & CUS., Kerala v/s. Larsen & Tourbo Ltd. - 2015 (39) S.T.R. 913 (SC).

(20) Association of Technical Textiles Manufacturers and Processors & Anr. v/s. Union of India - (2023) 12 Centax 195 (Del.).

(21) Union of India & Anr. v/s. Mohit Minerals Pvt. Ltd. - 2022 (61) G.S.T.L. 257 (SC).

(22) Parle Agro (P.) Ltd. v/s. UOI - (2023) 12 Centax 199 (Mad.)

(23) Oryx Fisheries Pvt. Ltd. v/s. UOI - 2011 (266) ELT 422 (SC).

(24) Nizam Sugar Factory v/s. Collector of Central Excise, A.P. - 2006 (197) ELT 465 (SC).

(25) M/s. Radhasoami Satsang v/s. CIT - (1992) 1 SCC 659.

(26) Torrent Power Ltd. v/s. Union of India - 2020 (34) G.S.T.L. 385 (Guj.).

**Submissions of Ms Asha Desai, learned Senior Standing Counsel for the Respondents:**

13. Ms Asha Desai, learned Senior Standing Counsel for the respondents while vehemently opposing the petition invited our attention to the detailed affidavit in reply filed on behalf of the respondent no.1 to submit that the petition is not maintainable as in the garb of challenging the impugned circulars, the petitioner is challenging the validity and legality of the impugned show cause notice only to derail and delay the adjudication.

14. Our attention is invited to the relevant provisions of the GST Act viz. Sections 2(53), 2(36), 7, 8, 15, 22 and the relevant extract-Clause 5 of Schedule II. The Notification No.12/2017 dated 28.06.2017 issued under the provisions of GST Act, 2017, emphatically holds education service as one which is liable to tax. The relaxation granted vide Notification No.12/2017 is confined to the services rendered by the educational institutions to the students, faculty and staff. It also grants exemption as regards collection of fees for entrance examination and other fees chargeable from the students for admission or any such purposes. Nowhere the respondents have declared or notified that charging of inspection fees and the affiliation fees by the petitioner would fall within the exempted category. The fact that the Notification dated 28.06.2017 has a broader

subject when it prescribes education services, which stood amended further vide Notification No.2 of 2018, clearly enumerates the specific nature of service rendered by the educational institutions which would stand exempted. The inspection and affiliation fees are not reflected in the Notification No.12 of 2017 dated 28.06.2017. The GST Council in its 47<sup>th</sup> meeting held on 28/29<sup>th</sup> June 2022 categorically held that as regards the question of granting exemption to the affiliation and other fees collected by the educational institute, its Circular dated 17.06.2021 and Circular dated 11.10.2024 issued by the Government of India, Ministry of Finance will apply. The Circular specifically provides that GST @ 18% applies to other services provided by such Boards, namely by providing accreditation to an institution or to a professional (accreditation fee or registration fee or as fee for FMGE screening test) so as to authorize them to provide their respective services. A reading of Clause (4) would give a clear indication that except for the exemption that has been specifically enumerated in Notification No.12 of 2017, all other services rendered by educational institutions and universities are taxable under the GST law.

15. Section 11 of the GST Act is relied upon to buttress the submission as to how the power to grant exemption is to be read. The affiliation fees/charges collected by

the petitioner are not exempted. Consideration received in the form of affiliation fees is considered to be supply of taxable services. Hence the said service provided is classifiable under SAC 9992 and attracts CGST at 9% and SGST at 9%. The activity of grant of affiliation against receipt of fee in the name of affiliation fee is 'supply of service'. Any activity undertaken by the Government or a local authority against a consideration constitutes a service and the amount charged for performing such activities is liable to GST. It is immaterial whether such activities are undertaken as a statutory or mandatory requirement under the law and irrespective of whether the amount charged for such service is laid down in a statute or not.

16. The decisions relied on by the learned counsel for the petitioner has given wide definition to the term "Education". GST Act through above circulars are not taxing any ingredients of education and in fact specific exemption has been provided by the Act to exempt certain educational services from levy of GST and hence the decisions are not relevant in the contextual facts. The affiliation to operate universities/boards is granted against the applications made by the institutions. The amount paid for the affiliation is the consideration for the service by the University by way of assignment of the fee. Reliance is placed on the decision in **Builder's**

***Association of India in its order dated 28.03.2018***

to contend that only those transactions or activities of Government or statutory authorities could be exempted which are specifically notified to be so. Reliance is also placed on the decision in ***Agricultural Market Committee v/s. Ashok Hari Kunj - AIR 2000 SC 3116*** and ***N. Nagendra Rao and Co. v/s. State of Andhra Pradesh - (1994) 6 SCC 205***, in support of her submissions.

17. The Circulars dated 17.06.2021 and 11.10.2024 merely clarifies the service provided by the Government and it cannot be by any stretch of imagination be stated that GST is being imposed on affiliation fee by the Circulars dated 17.06.2021 and 11.10.2024 not in accordance with the provisions of CGST Act 2017. It is therefore urged that the activity of the University of granting affiliation to various universities/colleges/schools against consideration in the form of affiliation fee or in any other form is a supply of service and taxable under CGST Act. Learned counsel submitted that it is a well settled principle of law that the fundamental principle of interpreting the taxing statutes is that in taxing statutes, the language cannot be strained.

18. Ms Desai relied on the following decisions in support of her submission :-

- (1) Commissioner of Custom (Import), Mumbai v/s. Dilip Kumar & Company & ors. - 2018 LawSuit(SC) 679
- (2) Commissioner, Central Excise, Trichy v/s. Rukumani Pakkwell Traders - 2004 Law Suit(SC) 197
- (3) Oberoi Construction Ltd and ors. v/s. UOI and ors. - 2024 LawSuit(Bom) 1950
- (4) All India Federation of Tax Practitioners v/s. UOI - 2007 LawSuit(SC) 937
- (5) Viswaat Chemicals Lts. And anr. v/s. UOI - WP(L) No.27725/2024.

**19.** We have heard Mr Raghuraman, learned Senior Advocate for the petitioner and Ms Asha Desai, learned Senior Standing Counsel for the respondents at length. We have perused the memo of petition, the materials placed on record and the written submissions. The principle issue involved in this petition is whether the Respondents have jurisdiction to levy GST on the affiliation fees collected by the petitioner University from its affiliated colleges.

**20.** Before we proceed to answer this issue, it is to be noted that the scheme of indirect taxes has undergone transformation upon introduction of GST with effect from 01/07/2017. For this purpose, the Constitution of India has been amended vide Constitution (101st Amendment)

Act, 2016 with effect from 16th September 2016. In terms of the above-referred Constitutional Amendment, the legislative competence of the Parliament and State Legislature to levy and collect tax on supply of goods and services is now traceable to Article 246A of the Constitution. Article 246A(1) of the Constitution empowers the Parliament and the State Legislatures to concurrently make laws with regard to tax on "intra-state" supply of goods and services. Article 246A(2) of the Constitution states that Parliament alone shall have exclusive power to make laws with regard to tax on supplies of goods or services or both made in the course of "inter-state trade or commerce".

**21.** The GST is being levied with concurrent jurisdiction of the Centre and the States on the supply of goods or services or both. GST is a destination-based value added tax on supply of goods or services or both which has come into force in India from 01/07/2017. GST is based on fundamental principle of consumption-based tax. In other words, tax shall accrue to the jurisdiction where consumption takes place.

**22.** According to the Petitioner University, whether at all the University was providing a taxable service (or not) under the provisions of the Central Goods and Services Tax Act, 2017 (CGST Act)/ Goa Goods and Services Tax

Act, 2017 (GGST Act) so as to empower the Respondents to issue the Impugned show cause notice, is one of jurisdictional fact.

23. Thus, the question in the present case is whether the show cause notice is issued on an assumed jurisdiction (where none actually existed) as to taxability of the activities of a university and the said show cause notice is completely contrary to statutory prescription, in which case this Court would be competent to interfere in the exercise of its jurisdiction under Article 226 of the Constitution.

24. It is well settled that the authority to act depends on the existence of jurisdictional fact. A jurisdictional fact is a fact which must exist before a Court, Tribunal or an authority assuming jurisdiction over a particular matter. If an authority wrongly assumes the existence of such fact, the order could be questioned under Article 226 of the Constitution. Section 9 of CGST Act, 2017/GGST Act, 2017, is the charging section which provides for levy of GST on 'supply of goods or services or both. Section 7 of the aforesaid statutes 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. The term 'business' is defined under Section 2 (17) of CGST Act, 2017.

25. For the facility of convenience, Sections 2(17), 7 and 9 are extracted reading thus:-

***"2.(17) "business" includes-***

- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;*
- (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);*
- (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;*
- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;*
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;*
- (f) admission, for a consideration, of persons to any premises;*
- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;*

(h) *activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club; and]*

(i) *any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;*"

***"Scope of supply.***

**7.(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 1, made or agreed to be made without a consideration

(d) [\*\*\*]

(1A) 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), (1A) 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."

***"Levy and Collection.***

**9. (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, 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."*

26. The Petitioner is a State university set up under the Goa University Act, 1984 enacted by the Legislative Assembly of Goa for the purpose of imparting education for the improvement of social and economic welfare of the people of the State of Goa. Learned Senior Advocate for the petitioner vehemently contended that educational activities cannot be termed as business activities and the amounts received towards affiliation and other fee would not fall within the ambit of consideration. Thus, according to him, the activities of the Petitioner University would not be amenable to GST, consequently, the impugned Show Cause Notice is without jurisdiction as the necessary jurisdictional facts are clearly and completely absent. He submits that Educational activities not being commercial in nature are not amenable to GST.

27. The GST is a value added tax which applies to 'all commercial activities' involving production of goods and provisions of services. GST is a destination-based consumption tax as it is borne by the consumer/end user in the supply chain.

28. In ***Laxmi Engineering Works Vs P.S.G. Industrial Institute - (1995) 3 SCC 583***, the Supreme Court held that the term "commercial activity" in turn has been held to mean something pertaining to commerce or

connected with or engaged in commerce; mercantile; having profit as the main aim.

29. The term 'education' has been neither defined under the CGST Act/SGST Act nor under the Constitution of India. The Supreme Court in ***Gujarat University v. Krishna Ranganath Mudholkar - AIR 1963 SC 703***, held that the expression "education" is of wide import and includes all matters relating to imparting and controlling education. The expression 'education' has been interpreted by the Hon'ble Supreme Court in various cases. In ***Sole Trustee, Lok Shikshana Trust v/s. CIT*** (supra), the term "education" was held to mean (para 5) the systematic instruction, schooling or training given to the young in preparation for the work of life. It also connotes the whole course of scholastic instruction which a person has received. What education connotes is the process of training and developing the knowledge, skill, mind and character of students by formal schooling.

30. In ***T.M.A. Pai Foundation v. State of Karnataka*** (supra), Their Lordships observed that education plays a cardinal role in transforming a society into a civilised nation. It accelerates the progress of the country in every sphere of national activity. No section of the citizens can be ignored or left behind because it would hamper the

progress of the country as a whole. It is the duty of the State to do all it could, to educate every section of citizens who need a helping hand in marching ahead along with others.

31. In ***P.A. Inamdar v. State of Maharashtra (2005) 6 SCC 537***, the Hon'ble Supreme Court has held thus:

**"81.** 'Education' according to Chambers Dictionary is 'bringing up or training;... strengthening of the powers of body or mind; culture'.

**82.** In Advanced Law Lexicon (P. Ramanatha Aiyar, 3rd Edn., 2005, Vol. 2), 'education' is defined in very wide terms. It is stated:

*'Education is the bringing up; the process of developing and training the powers and capabilities of human beings. In its broadest sense the word comprehends not merely the instruction received at school, or college but the whole course of training moral, intellectual and physical; is not limited to the ordinary instruction of the child in the pursuits of literature. It also comprehends a proper attention to the moral and religious sentiments of the child. And it is sometimes used as synonymous with "learning".'*

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84. In 'India-Vision-2020' published by the Planning Commission of India, it is stated (at p. 250):

*'Education is an important input both for the growth of the society as well as for the individual. Properly planned educational input*

*can contribute to increase in the gross national products, cultural richness, build positive attitude towards technology and increase efficiency and effectiveness of the governance. Education opens new horizons for an individual, provides new aspirations and develops new values. It strengthens competencies and develops commitment. Education generates in an individual a critical outlook on social and political realities and sharpens the ability to self-examination, self-monitoring and self-criticism'."*

32. In ***State of Tamil Nadu v. K. Shyam Sunder, (2011) 8 SCC 737***, the Supreme Court emphasized the importance of common curriculum and prescription thereof as an integral and essential requirement of education. In ***Indian Medical Assn. v. Union of India, (2011) 7 SCC 179 (Para 232)***, it is observed that education is one of the principal human activities to establish a humanised order in our country. Its ontological specification is simple: every individual, in every group, is worthy of being educated.

33. Significant observations are made in ***Bhartiya Seva Samaj Trust v. Yogeshbhai Ambalal Patel, (2012) 9 SCC 310 (Para 21)*** that education not only means learning how to write and read alphabets or get mere information, but it means to acquire knowledge and wisdom so that one may lead a better life and become a

better citizen to serve the nation in a better way. While laying emphasis on the examination, the Hon'ble Supreme Court in ***Nidhi Kaim v. State of Madhya Pradesh (2016) 7 SCC 615***, held that the examination is considered as a common tool around which the entire education system revolves.

34. The High Court of Gujarat in ***Sahitya Mudranalaya Private Limited vs. Additional Director General*** (supra), while examining the issue as to whether services in relation to examination conducted by the Education Boards were exempted from service tax, held that conducting of examinations are indispensable part of education process. The University confers degrees/diplomas etc. after holding examinations. Unless a student holds a certificate or degree issued by a Board/University, his or her school education would not be complete, similarly, without a degree or diploma being conferred by the University, college education would not be complete. Therefore, examinations are an indispensable component of education, without which such education is incomplete. Therefore, to say that Boards/Universities are not "educational institutions" would amount to divorcing examinations from education. Similar was the view taken by the Karnataka High Court in ***Principle Addl. Directorate General DGGSTI vs. Rajiv Gandhi University of Health Sciences*** (supra).

35. Let us turn to the present case. The Petitioner University is creature of statute i.e., the Goa University Act, 1984. The Petitioner was established with a purpose of ensuring proper and systematic instruction, teaching, training and research. The fees such as affiliation fees, prospectus fees and migration certificate fees, sports fee 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. 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' in terms whereof, the money or money value in respect or in response to the supply would be a consideration. In our opinion, the affiliation is undertaken by the University in terms of the requirement of the statute and in discharge of public functions, the fee so collected for affiliation fails to qualify as 'consideration'. The fees collected by the University i.e. Affiliation fees, PG registration fees and convocation fees are not amenable to GST in as much as the fees collected by the University is not a consideration as contemplated in section 7 of CGST Act/GGST Act, as the fees are collected in the nature of statutory fee or regulatory fee in terms of the statutory provisions and not contractual in nature. The same cannot be given a

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/s. Ahmedabad Urban Development Authority** (supra), in Para 160, it is held thus:-

*"Fee, cess and any other consideration" has to receive a purposive interpretation, in the present context. If fee or cess or such consideration is collected for the purpose of an activity, by a State department or entity, which is set up by the statute, its mandate to collect such amounts cannot be treated as consideration towards trade or business. Therefore, regulatory activity, necessitating fee or cess collection in terms of the enacted law, or collection of amounts in furtherance of activities such as education, regulation of profession, etc. are per se not business or commercial in nature. Likewise, statutory boards and authorities, who are under mandate to develop housing, industrial and other estates, including development of residential housing at reasonable or subsidised costs, which might entail charging higher amounts from some section of the beneficiaries, to cross-subsidise the main activity, cannot be characterised as engaging in business. The character of being "State", and such corporations or bodies set up under specific laws (whether by States or the Centre) would, therefore, not mean that the amounts are "fee" or "cess" to provide some commercial or business service. In each case, at the same time, the mere nomenclature of the consideration being a "fee" or "cess", is not conclusive. If the fee or cess, or other consideration*

*is to provide an essential service, in larger public interest, such as water cess or sewage cess or fee, such consideration, received by a statutory body, would not be considered "trade, commerce or business" or service in relation to those. Non-statutory bodies, on the other hand, which may mimic regulatory or development bodies such as those which promote trade, for a section of business or industry, or are aimed at providing facilities or amenities to improve efficiencies, or platforms to a segment of business, for fee, whether charged by subscription, or specific fee, etc. may not be charitable; when they claim exemption, their cases would require further scrutiny."*

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 of consideration. Essentially there shall involve 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 it is a contractual obligation.

In ***Principal Addl. Directorate General DGGSTI vs. Rajiv Gandhi University of Health Sciences*** (supra), the Karnataka High Court in para VIII held thus:-

*"Affiliation creates a kind of umbilical chord between affiliating body and the affiliated entity. Section 2(a) of RGUHS Act, defines 'Affiliated College' to mean a college or institution... affiliated to the University in accordance with the Statutes. It also includes the institutions that are deemed to be affiliated to the*

*University. Deeming part is not relevant for our discussion. Section 4 of this Act which enlists the powers & functions of the University, at clause (vii) reads 'to affiliate or recognise colleges and institutions and to withdraw such affiliation or recognition'. Section 45 provides for affiliation and the procedure therefor. For grant of admission, affiliation is a pre-condition under subsection (10). Section 48 provides for withdrawal of affiliation on fault grounds. For the grant or renewal of affiliation, the University levies fees, late fees, fines & penalties in terms of extant statutes of the University, However, the act of granting, renewing or withdrawing is done in discharge of public duties enjoined by law. Therefore, such acts do not fit into the expression 'activities carried on for consideration', more particularly, when they do not have commercial elements, as rightly contended by Mr.Raghuraman. Added, the idea of 'activities carried on for consideration' as employed in the definition of service u/s 65B(44) of the Finance Act ordinarily obtains in the realm of freedom of contract and not in the field of public law. Of course, the concept of sovereign function being impertinent, does not factor in the discussion. The function related to affiliation cannot be treated as a 'bundled service' under clause (3) of section 66F of the Finance Act, 1994, either. The interests/fines/penalties leviable on account of default also have a thick connect with the fees regularly leviable and therefore, they would partake the character of fees only. 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 during the academic year between 2012-13 and 2016-17. The periodicity of collection of affiliation related fees pales into insignificance."*

38. In the context of the present case, it needs to be noted that the affiliation fee is collected while discharging the statutory functions under the Goa University Act, 1984. It is relevant to refer to some of the provisions of the Goa University Act, 1984 and the rules made thereunder relating to affiliation. Section 2(2) provides that "affiliated college" means a college recognised by the University as such in accordance with the provisions of the Act and the Statutes in which instruction is provided in accordance with the provisions of the Statutes and Ordinances; Section 2(8) provides that "College" means a college maintained by the University and includes an affiliated College; As per Section 2(19), 'University' means the Goa University. Section 5 provides for powers and functions of the university. This provision provides for powers to establish and maintain colleges, institutions, halls and hostels, to admit to its privileges, colleges, institutions and halls not maintained by it and to withdraw any of those privileges (sub-section 7); to recognise an institution of higher learning for such purposes as the University may determine and to withdraw such recognition (sub-section 11).

39. Having noticed some of the relevant provisions of the Goa University Act, 1984, it is significant to refer to some of the provisions of the University Grants Commission Act, 1956 ('UGC Act' for short). The UGC Act read with rules and regulations issued thereunder mandates that universities are required to undertake inspection and examination of colleges before grant of affiliation so as to ensure that the colleges fulfil certain set of standards and requirements as required under the UGC Act. The UGC (Fitness of Certain Universities for Grants) Rules, 1974; UGC (Returns of Information by Universities) Rules, 1979; Recognition of College in Terms of Regulations, 1974 and UGC (Minimum Standards of Instruction for the Grant of the First Degree through Formal Education) Regulations, 2003 are relevant for understanding the matter in context.

40. The petitioner is actively involved in imparting education to students and it acts as a regulator of education. It is in view of the affiliation from the petitioner University to constituent colleges that the colleges conduct programmes of study. The activities undertaken by the Petitioner University are statutory and regulatory in nature.

41. In the context of statutory function, the Hon'ble Supreme Court in ***Shri Ramtanu Co-operative***

**Housing Society Ltd. Vs State of Maharashtra and Others 1970 (3) SCC 323**, held that the Maharashtra Development Corporation, incorporated under the Maharashtra Industrial Development Act, 1961, was established for carrying out the purposes of the Act. It was held that pith and substance of the Act is establishment, growth and organization of industries; acquisition of land in that behalf and the Corporation was functioning as one of the limbs or agencies of Government. It was further held that powers and functions of the Corporation show that these are all in aid of the principal and predominant purpose of the corporation which is growth and establishment of industries. In **Assistant Commissioner of Income Tax (Exemptions) vs. Ahmedabad Urban Development Authority** (supra) (Para B), the Court held that the amounts or money charged by the statutory bodies or institutions is for achieving public functions or services. Such amounts are excluded from the mischief of commercial receipts.

42. This Court in **Commissioner of Central Excise, Nasik vs Maharashtra Industrial Development Corporation 2018 (9) GSTL 372 (Bom)**, while examining the levy of service tax on the maintenance activities undertaken by the corporation, held that

Maharashtra Industrial Development Corporation is a statutory corporation which is virtually a wing of the State Government, and it discharges several sovereign functions. It was held that for providing amenities to plot holders 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.

43. The High Court of Madras in the case of ***Manonmaniam Sundaranar University v/s. The Joint Director (GST Intelligence), 2021-TIOL-888-HC-MAD-ST***, held that the affiliation fees as well as the inspection commission collected by the University are in the nature of statutory levies. It was held that by performing those activities, the Petitioner is only discharging a statutory function and the fees collected by the Petitioner cannot be amenable to levy of Service Tax. We are in agreement with the learned Senior Advocate for the Petitioner when he submits that from a conjoint reading of the relevant statutory provisions and judicial precedents, the fees collected by the Petitioner University are in terms of the statutory mandate to undertake the activities as set out in the Goa University Act towards regulating the activity of colleges affiliated to the university cannot be brought under the GST net.

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 Code (Tariff)	Description of Services	Rate (%)	Condition
<b>66</b>	Heading 9992 or Heading 9963	Services provided: <b>(a) by an educational institution to its students, faculty and staff;</b> <b>(aa) by an educational institution by way of</b>	Nil	Nil

		<p>conduct of entrance examination against consideration in the form of entrance fee;</p> <p><b>(b) to an educational institution, by way of,</b></p> <p>(i) transportation of students, faculty and staff;</p> <p>(ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory;</p> <p>(iii) security or cleaning or housekeeping services performed</p>		
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		<p>in such educational institution;</p> <p><b>(iv) services relating to admission to, or conduct of examination by, such institution;</b></p> <p>(v) supply of online educational journals or periodicals:</p> <p>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</p>	
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		<p>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,</p> <p>(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>		
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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.

46. We are in respectful agreement with the view of the High Court of Karnataka in *Rajiv Gandhi University of Health Sciences (supra)* where it is held that University which grants affiliation is also an educational institution. The Madras High Court in ***Madurai Kamaraj University vs Jt. Comm of GST & C.Ex., Madurai [2021 (54) GSTL 385 (Mad.)]***, held that the word "educational institution", cannot denote only the college affiliated to the university, but it includes the university. We therefore find merit in the submissions of the learned Senior Advocate that even assuming that the affiliation fees collected by the university, is to be regarded as a service, the said services provided by Goa University are covered under the 1<sup>st</sup> limb of the exemption entry as ultimately the student of an affiliated college has to be regarded as a student of the university which grants him the degree.

47. It is material to note that without the affiliation from the Petitioner University, the constituent colleges are not permitted to admit students for the courses. Further, the examination is conducted by the Goa University which in turn leads to award of degree to the students. Hence the fees which are collected from colleges are clearly covered by the exemption notification. The activity of the

Goa University in collecting the affiliation fees is exempt from GST and hence the fees collected by Goa University is not liable to tax.

48. The Goa University is actively involved in imparting education to students and it acts as a regulator of education. Section 24 of the Goa University Act specifically empowers university to pass 'ordinance' for the admission of students to the University and their enrolment, fee to be charged for admission and examination. It is on the basis of the affiliation that is granted by the University that the affiliated colleges conduct courses, conduct examinations and also award the degree to the students admitted to secondary education. The term 'education', in our opinion, and as rightly submitted by the learned Senior Advocate for the petitioner University, should not be restricted to the activity of teaching/providing instruction to students inside a classroom, rather it is a wider term which would involve the activity of designing the curriculum for the course of study which would be used by constituent colleges, giving affiliation to colleges so that the standard of education imparted by them is in accordance with the standards set by the Goa University, conferring the degree at the end of the course to the students.

49. The Impugned Show Cause Notice relies on the clarifications issued by the Respondent No.2 vide Circular dated 17/06/2021. The Circular while clarifying the exemptions available to the National Board of Examination, in paragraph 4(iii) of the circular states that GST at the rate of 18% applies to other services provided by such Boards, namely of providing accreditation to an institution. Based on the recommendations of the 54th GST Council meeting, the Respondent No. 2, vide paragraph 2 of the Circular dated 11/10/2024, clarified that affiliation services provided by universities to their constituent colleges are not covered within the ambit of exemptions provided to educational institutions.

50. We are of the opinion that so far as the University is concerned, these clarifications are contrary to the statutory provisions of Sections 7 and 9 of the GST Legislations in as much as the said Circular assumes that the said activity of affiliation service provided by the University to their constituent colleges would qualify as supply.

51. The Supreme Court in ***CCE Vs. Ratan Melting and Wire Industries, 2008 (231) E.L.T. 22 (S.C)*** held that the clarifications which are contrary to the statutory provisions have no existence in law to attract levy of GST in terms of section 9, it has to be first established that

the activity undertaken by the petitioner University would qualify to be 'supply' in terms of Section 7 of the CGST Act. Imposing levy by way of clarifications in our view is impermissible. Moreover, by the impugned Circular, additional restrictions for availing exemption duty under Entry 66 of the Notification dated 28.06.2017 is enforced and therefore also the clarification which is not in consonance with the statutory provisions and the exemption Notification dated 28.06.2017 cannot be acted upon. By the impugned Circular dated 17.06.2017 it is clarified that - (a) any services provided by examination board by way of conduct of examination for students including entrance examination for admission to education institutions and fees collected therefrom shall be exempted from GST; (b) GST is also exempted for input services availed by the education institutions for conducting examination and entrance examinations; (c) However, 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 authorise them to provide their respective services would be liable to GST at 18%.

52. Thus, the said clarifications restrict the scope of exemption notification and makes the fee collected by

the board from the educational institution for the purpose of accreditation to such board, liable for GST. Learned Senior Advocate submitted that relying on the said circular, the Respondent has demanded GST on affiliation and other fees collected by the Petitioner University.

53. By the Circular dated 11.10.2024, the respondent clarified that (a)the activity of affiliation is to monitor and ensure whether the institution possesses the required infrastructure and is thereby eligible for the privileges to conduct the course/program of study for the degree/title extended by the University to the students enrolled in such institutions; (b)the affiliation services provided by the universities to colleges are not by way of services related to the admission of students to such colleges or the conduct of examinations by such colleges and consequently, the said services are not covered within the exemption.

54. In our view the impugned Circular dated 11.10.2024 in its application to the Petitioner University is contrary to the plain language of the notification which exempts services by educational institution to its students, faculty and staff and also services provided to educational institution. The Impugned clarifications issued by the Respondent No. 2, does not notice the existence of the exemption under clause (a) of entry 66 of the exemption

notification no. 12/2017 in so far as it relates to demanding GST on affiliation fees. The university is also an educational institution and students of the university, include students studying through affiliated colleges. Thus, the activities of the university, in so far as it relates to levying of affiliation fees is exempt from GST. The Circular dated 11.10.2024 in its application to the Goa University where it is clarified that the affiliation services by universities to colleges are not by way of services related to the admission of students to such colleges or the conduct of examinations by such colleges, is erroneous.

55. The Hon'ble Supreme Court in ***Bhartia Education Society v. State of H.P., (2011) 4 SCC 527***, in the context of the NCTE Act, observed that "affiliation" enables and permits an institution to send its students to participate in the public examinations conducted by the examining body and secure the qualification in the nature of degrees, diplomas, certificates, etc. In ***Principal and others Vs Presiding Officer and Others, (1978) 1 SCC 498***, the Hon'ble Supreme Court observed that affiliation is meant to prepare and present students for public examination. In our view, affiliation is essentially an activity relating to admission and examination of students and hence the Circular dated 11.10.2024 in its

application to the petitioner University is contrary to the settled legal position. The circular cannot take away the effect of the notification statutorily issued. The Respondents cannot whittle down the exemption notification and restrict the scope of the exemption notification by issuing a circular, whereby a new condition is sought to be incorporated thereby restricting the scope of the exemption. To support this view, we rely on ***Sandur Micro Circuits Ltd. Vs. CCE, Belgaum, 2008 (229) ELT 641 (SC)***. Reliance is also placed by learned Senior Advocate on Union ***Of India V/s. Inter Continental (India) 2008 (226) ELT 16 (SC)***. Their Lordships while examining the issue as to whether CBEC by way of circular could introduce additional condition for claiming exemption for imported crude palm oil, held that that by issuing a circular subsequent to a notification, the department could not add new conditions to the notification, thereby restricting the scope of exemption notification or whittling it down.

56. Learned Senior Advocate made a submission that the Tax Research Unit (TRU) is not empowered to issue clarifications and hence Circulars dated 28.06.2017 and 11.10.2024 are illegal. It is submitted that such directives can be issued only by the Board and no one else under the provisions of Section 7 of the GST Act. We have

examined the circulars in their application to the petitioner University. Moreover, the show cause notice was issued on the premise that the inspection and affiliation fees are not a part of the notification of 2017 granting exemption. We have not dealt with the other contentions raised by learned Senior Advocate as we are satisfied that the Petitioner deserves reliefs even on the aforesaid considerations and the ones discussed hereafter.

57. The GST has been demanded based on the income recorded in the financial statements, however the activity has to qualify supply to be made liable to GST. The amounts that are chargeable to tax arise on account of supply of goods or services or both and in the absence of this, the show cause notice would be bad on jurisdictional facts. We rely on the decision of the Supreme Court in ***Girdhari Lal Nannelal Vs Commissioner of Sales Tax (1976) 3 SCC 701 (Para 7), Haleema Zubair Vs State of Kerala 2009 (13) STR 113 (SC) (Para 22)*** and ***P.C. Ittymathew & Sons Vs Deputy Commissioner of Sales Tax (2000) 9 SCC 318*** in support of our observations.

58. The petitioner University has reported income in the income and expenditure account and its schedules and sub-schedules have been listed and the GST is demanded

on the same without establishing as to how these incomes would be liable to GST. The GST is proposed on the sale of prospectus, sale of old newspaper, various fees towards sports, eligibility certificate, migration certificate, admission fee etc., received from students are also taken for the purpose of demand. Further, demand of tax is also proposed on interest income earned by the university. The Petitioner University has also tabulated the details of income which are listed for tax and also provided the reasons why such income cannot be subjected to tax. Learned Senior Advocate for the Petitioner University is justified in contending that where the main activity is not a business then any incidental or ancillary transaction held, would normally amount to business only if an independent intention to carry on business in the incidental or ancillary transaction is established. The burden to prove such intention rests on the Department. Hence, where the main and dominant activity of the University is education, it cannot be termed as business activity to demand tax. We draw support from the decision of the Supreme Court in ***Commissioner of Sales Tax Vs. Sai Publication Fund, (2002) 4 SCC 57*** for the view that we take.

59. Incomes such as rent/license fee received from teachers or staff are clearly exempt from tax being

residential in nature and being services rendered to faculty. The interest income is exempt from tax in terms of serial 27 of Notification 12/2017-CT(R) dated 28.06.2017. We find that as regards rent received from third parties towards setting up Kiosks and others, GST has already been remitted and reported in the returns. In light of the aforesaid discussion, we have not examined the other contentions raised on behalf of the petitioner University.

60. Learned Standing Counsel for the Respondents though was at pains to meticulously invite our attention to the affidavit in reply filed by the respondents as also the written submissions filed on their behalf apart from the oral submissions made, for the reasons aforementioned, we are unable to subscribe to the stand of the respondents in the facts of the present case.

61. For the reasons aforementioned we are of the opinion that the activities of the petitioner University not being commercial in nature, are not amenable to GST. In our considered view, there is a complete absence of jurisdictional facts to issue the impugned show cause notice. The petition is therefore allowed in terms of prayer clause (a) which reads thus:-

*“(a) That this Hon'ble Court be pleased to issue a Writ of Mandamus or Certiorari, or Writ in the nature of Mandamus or Certiorari, or any other Writ or Order or Direction calling for the records of the Show Cause Notice bearing no. CGST/11/2024-25/D-II/ GOA UNIVERSITY/R-II dated 05/08/2024 having DIN No. 20240868UF0000818237 issued by the Respondent No. 1 and quash the same, along with consequential relief and pass any other Writ, Order or Direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice and equity.”*

**NIVEDITA P. MEHTA, J.**

**M. S. KARNIK, J.**

