

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 1

Service Tax Appeal No. 21490 of 2016

(Arising out of Order-in-Original No. MLR-EXCUS-000-COM-MS-45-15-16 dated 27.05.2016 passed by the Commissioner of Central Excise Commissionerate, Mangalore.)

Manipal University

(formerly known as Manipal Academy of
Higher Education)
University Building, Madhavanagar,
Manipal - 576 104.

Appellant(s)

VERSUS

**Commissioner of Central
Excise and Service Tax**

7th Floor, Trade Centre
Bunts Hostel Road
Mangaluru - 575 003.

Respondent(s)

With

Service Tax Appeal No. 20726 of 2017

(Arising out of Order-in-Original No. MLR-EXCUS-000-COM-MS-21-16-17 dated 16.02.2017 passed by the Commissioner of Central Excise Commissionerate, Mangalore.)

Manipal University

(formerly known as Manipal Academy of
Higher Education)
University Building, Madhavanagar,
Manipal - 576 104.

Appellant(s)

VERSUS

**Commissioner of Central
Excise and Service Tax**

7th Floor, Trade Centre
Bunts Hostel Road
Mangaluru - 575 003.

Respondent(s)

APPEARANCE:

Mr. Sajjan Kumar Tulsiyan, Advocate for the Appellant

Mr. M.A. Jithendra, Assistant Commissioner (AR) for the Respondent

**CORAM: HON'BLE DR. D.M. MISRA, MEMBER (JUDICIAL)
HON'BLE MRS R. BHAGYA DEVI, MEMBER
(TECHNICAL)**

Final Order No. 20545 - 20546 / 2026

DATE OF HEARING: 13.01.2026

DATE OF DECISION: 21.04.2026

PER : D.M. MISRA

These two appeals are filed against respective Orders-in-Original involving common issue are taken up together for hearing and disposal.

2. Briefly stated the facts of the case are that the appellant is a Deemed University have been rendering and receiving various taxable services. During the course of verification of their records, it came to the notice of the department that they are collecting premium for providing Manipal Healthcare Security Scheme and also issued Manipal Arogya Card (Manipal Health Card) to the General Public for a period one year against fixed sum under which the hospital affiliated under the Manipal University offered a discount at fixed rate to the card holders for treatment. Also, they have incurred certain expenditure towards availing of legal services from the advocate even though as a business entity, liable to pay applicable tax on the legal services on Reverse Charge Mechanism (RCM) basis but failed to discharge the same from 01.07.2012. Thus, they were directed to make service tax payment towards the said services by the Range Superintendent through its letter dated 19.11.2014 and later, show-cause notice was issued on 26.03.2015 for recovery of the service tax of Rs.2,06,79,228/- for providing medical insurance service (Manipal Health Security Scheme) for the period from July 2012 to August 2014; an amount of Rs.72,92,829/- for providing Manipal Healthcare Card during the period from July 2012 to August 2014 and Rs.22,59,052/- for receiving legal services from the advocates during the said period for July 2012 to August 2014 with interest and penalty.

On adjudicating, the demand was confirmed with interest and penalty. Hence, the present appeal.

3. At the outset, the learned advocate has submitted that the appellant is a Deemed University under the University Grants Commission (UGC) established with the sole objective of imparting higher education. The appellant is constituted as Public Charitable Trust and functions on a not-for-profit basis. Neither the appellant is registered/recognised or authorised under any law as an insurer or insurance service provider, therefore, it cannot be said that they are engaged in providing insurance service. He has submitted that the Manipal Arogya Suraksha Scheme is a welfare initiative on the part of the appellant to afford access to affordable healthcare to the community. It is not a commercial activity, but it is welfare in nature. The scheme acts as a facilitator for enabling group health insurance coverage through an authorised insurance company. A nominal contribution collected from the beneficiary by the appellant is directly remitted to the insurer, M/s. Suture Generali India Life Insurance Company Ltd. which alone covers the insurance and assumes the associated risk. The appellant neither undertakes any risks nor issues any insurance policy in its own name, therefore, no insurance service is rendered by the appellant. They only facilitate in collecting and forwarding the insurance premium on behalf of the beneficiary to the insurer. Further, he has submitted that the amounts collected from the beneficiaries are substantially lower than the actual premium payable to the insurance company. Keeping in view its welfare motive, the deficit amount is paid by the Appellant from their own funds for uninterrupted insurance coverage and protection of the interests of the beneficiaries. Therefore, the activities of the appellant do not fall under the definition of 'service' as prescribed under Section 65B(44) of the Finance Act, 1994.

4. It is argued that 'consideration' is a sine qua non for any activity to qualify as a taxable service. He has vehemently argued that when no 'consideration' is received by the appellant for any activity of insurance provision; the entire premium amount collected from the beneficiaries are remitted to the insurer, who renders the insurance service to the beneficiaries and accepts the risks, no taxable service is rendered by them. Further, he has submitted that insurance service is exclusively rendered by the insurance company which issues policy documents directly in the names of the individual beneficiaries. This policy documents along with Manipal Arogya Suraksha Scheme clearly identifies the insurer as the service provider. The beneficiaries are also aware that their insurance cover is underwritten and administered by the insurance company and not by the appellant.

5. Further, he has submitted that the appellant is a charitable organisation duly registered under Section 12A of the Income Tax Act, 1961, therefore, in view of the Notification No.25/2012-ST dated 20.06.2012, the service provided by the appellant are exempt from whole of service tax leviable under Section 65B of the Finance Act, 1994. Further, they have submitted that appellant is a Public Trust registered under Indian Trust Act, 1982. Being a Trust, the appellant is not a body corporate, it lacks independent legal personality, has no perpetual succession, and has no statutory authority to carry on business of insurance. Further, the appellants are not registered with IRDAI, hence not authorised to provide health insurance as per Section 3 of the IRDA (Health Insurance) Regulations, 2013. He has submitted that even if it is treated as a 'service' as per the scheme documents, since it provides a comprehensive insurance introduced by the appellant in association with various trusts and NGOs, it is squarely covered under the Entry No.2 of the

Notification No.25/2012-ST dated 20.06.2012. Alternatively, he has submitted that in the event they are required to pay service tax on the healthcare services, appellant would be entitled to avail cenvat credit of the service tax already paid to the insurance provider. Since they had paid in excess of insurance premium collected from the insured individuals, there would not be any demand of service tax on utilisation of the cenvat credit availed on the premium collected and paid to the insurance service provider.

6. On the issue of levy of service tax on Manipal Arogya Card Scheme, it is submitted that it is essentially a welfare initiative by the appellant with a primary objective of providing quality healthcare at subsidised cost to the public. The membership of the scheme is open to all the public with any predefined criteria. A nominal fee is collected to facilitate the beneficiaries access to healthcare services under the scheme. The scheme is valid for one year and renewal fee is collected after expiry of the period to continue the said scheme. Also, he has submitted that in order to operate and maintain a medical college, the Manipal University is required to comply with the Regulations and Standards prescribed by the Minimum Standard Requirement for the Medical College by Medical Council of India (MCI). Also, to meet this Regulatory requirement and to ensure sufficient patient load for both educational and healthcare purposes, the appellant has introduced Manipal Arogya Card scheme. The Arogya Card, thus, serves a dual purpose i.e., it ensures compliance with the statutory obligations for medical education and also at the same time, facilitates accessible healthcare for the public. Assailing the impugned order that appellant is not a clinical establishment and therefore, does not qualify for exemption, he has submitted that the appellant operates hospital and medical colleges, which qualify as a clinical

establishment under the relevant definitions, thus, the services provided by the Arogya Card scheme delivered through these establishments qualify for exemptions for healthcare services under the said exemption Notification. In support, they also referred to the clarification issued by the CBEC through Education Guide dated 20.06.2012.

7. On confirmation of the service tax demand relating to legal services received by the appellant from the advocate, he has submitted that the impugned order confirms the service tax demand on them on reverse charge basis erroneously as the said provision is applicable only to 'Business Entity'. Referring to the definition of 'Business Entity' under Section 65B(17) of the Finance Act, 1994, he has submitted that it relates to any person ordinarily carrying out any activity relating to industry, commerce or any other business. The word 'Business' denotes a systematic, organised activity undertaken with a set purpose or profit motive. In support, he has referred to the judgment in the case of **Narain Swadeshi Mills v. Commissioner of Excess Profits Tax: AIR 1955 SC 176; Bakhtawar Singh Balakrishnan vs. Union of India: AIR 1983 Del. 201;** and **S. Mohan Lal vs. R. Kondiah: AIR 1979 SC 1132.**

8. Further, he has submitted that appellant is a Public Trust registered under Indian Trust Act, 1982 and Trust does not have a separate legal personality, cannot carry on business in its own name as it has no lawful authority of incorporation, it is merely an obligation annexed to the property, with trustees holding legal title subject to fiduciary duties and beneficiaries holding beneficial interest. It is his contention that since appellant is not a business entity and not a legal person capable of carrying on business, it cannot be held to pay service tax under a legal service under Reverse Charge Mechanism (RCM).

9. On the issue of invoking extended period of limitation, it is his submission that appellant under *bona fide* belief that the services rendered by them were not taxable and accordingly, not paid service tax on the aforesaid service during the relevant period. Further, he has submitted that they filed service tax returns regularly and maintained complete records of the transaction, therefore, invoking suppression of facts and misdeclaration in confirming demand for extended period is unsustainable. On the same reasons, he has argued that no penalty is imposable on them.

10. Learned Authorised Representative (AR) for the Revenue reiterating the findings of the learned Commissioner has submitted that the activity undertaken by the appellant clearly fits into the definition of 'Service' as defined under the Finance Act, 1994 after 30.06.2012. He has submitted that the activities undertaken by the appellant since do not fall under any of the exclusion clause and also not under Negative List of services, therefore, it is taxable. Further, he has submitted that the said activities also do not fall under the exemption Notification No.25/2012-ST dated 20.06.2012. It is his submission that the activities undertaken by the appellant is nothing but insurance service in its various forms be it medical insurance or health card scheme of discounts at their hospital and it cannot be considered as a medical services or educational services. The contractual obligation is only to provide risk cover in case of illness or injury and not treatment. The treatment is charged separately by the specified hospital, therefore, to claim that the services are covered under medical services, hence, exempted under Notification No.25/2012-ST dated 20.06.2012 is a fallacy. Referring to the definition of 'charitable activities', he has submitted that the activities undertaken by the appellant are simple risk coverage for medical reasons and not medical

services, hence, does not fall under the scope of charitable activity. Further, he has submitted that issuance of Arogya Card also does not come under the scope of exempted service. Also, since theirs is Business Organisation as defined under Section 65B(17) of the Finance Act, 1994, hence, their activities are leviable to service tax.

11. Heard both sides and perused the records. The issues involved in the present appeals for consideration is whether (i) the services provided by the appellant under Manipal Arogya Suraksha Scheme is leviable to service tax; (ii) Arogya Card Scheme is exempted under Mega Notification No.25/2012 dated 20.06.2012; (iii) Legal Charges received by the appellant is chargeable to service tax under Reverse Charge Mechanism (RCM) basis as per Rule 2(1)(d)(i)(D)(II).

12. Undisputed facts of the case are that the appellant has been providing Manipal Healthcare Security Scheme to its students, staff and their family members, and collecting the premium amount and depositing the same with insurance companies after making good the deficit of premium, if any, as a welfare measure. It is the contention of the appellant that they do not retain any amount of the said premium and the entire premium is paid to the insurance companies, hence, no service has been rendered by the appellant except acting as a facilitator in collecting the premium and depositing with the insurance companies. Also, it is their claim that the appellants are not authorised under IRDA to sell health insurance policies, therefore, such services cannot be rendered by them.

13. The definition of 'Service' with effect from 01.07.2012 under the Negative List Regime reads as follows:

Section 65B(44): 'Service' means any activity carried out by a person for another for consideration and includes a declared service, but shall not include –

- (a) an activity which constitutes merely, -
 - (i) a transfer of title in goods or immovable property, by way of sale, gift or in any other manner; or
 - (ii) such transfer, delivery or supply of any goods which is deemed to be a sale within the meaning of clause (29A) of article 366 of the Constitution; or
 - (iii) a transaction in money or actionable claim;
- (b) a provision of service by an employee to the employer in the course of or in relation to his employment;
- (c) fees taken in any court or tribunal established under any law for the time being in force.

Section 65B(51): 'taxable service' means any service on which service tax is leviable under Section 66B.

Section 66B: There shall be levied a tax (hereinafter referred to as the service tax) at the rate of twelve percent (12%) on the value of all services, other than those services specified in the negative list, provided or agreed to be provided in the taxable territory by one person to another and collected in such manner as may be prescribed.

14. A plain reading of the said provision reveals that 'service' means any activity carried out by a person for another for 'consideration', therefore, 'consideration' plays a significant role in the scope and meaning of service. In the absence of 'consideration' for any activity, same would not be called as a 'service' within the meaning of Section 65(44) of the Finance Act, 1994. In the present case, the premium collected by the appellant and deposited with the insurance agencies for the activity of providing Arogya Suraksha Scheme cannot be considered as a 'service' as the beneficiaries are not paying any 'consideration' to the appellant for receiving the Group Health Insurance from the insurance companies. On the other hand, it

is an undisputed fact that any deficit to the premium required to be paid are made good by the appellant. In the appeal paper-book, the appellant has enclosed the group insurance policy, group medicalim insurance policy issued by the National Insurance Company Ltd. along with the list of beneficiaries and the premium amount paid. In these circumstances, we are of the opinion that since no service has been rendered by the appellant, confirmation of service tax on the said activity cannot be sustained.

15. On the issue of levy of service tax on Manipal Arogya Card/ Manipal Health Card issued by the appellant, it is argued on behalf of the appellant that as a dual purpose of compliance with the Regulations and Standards prescribed by the MCI and also to provide facilities to the Public at a nominal cost, the said card has been introduced and the card holder is entitled to avail the benefit of health services from the medical college run by the appellant. The relevant portion of Mega exemption Notification No.25/2012 dated 20.06.2014 reads as:

Exemptions from Service tax — Mega Notifications — Notification No. 12/2012-S.T. superseded

In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Act) and in supersession of notification number 12/2012-Service Tax, dated the 17th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* number G.S.R. 210(E), dated the 17th March, 2012, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the following taxable services from the whole of the service tax leviable thereon under section 66B of the said Act, namely :-

1.
2. Health care services by a **clinical establishment**, an authorised medical practitioner or para-medics;
3.
4. Services by an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) by way of charitable activities;

16. The definition of 'Clinical Establishment' under Section 65(25a) reads as:

[Section (25a) "clinical establishment" means—

- (i) a hospital, maternity home, nursing home, dispensary, clinic, sanatorium or an institution, by whatever name called, owned, established, administered or managed by any person or body of persons, whether incorporated or not, having in its establishment the facility of central air-conditioning either in whole or in part of its premises and having more than twenty-five beds for in-patient treatment at any time during the financial year, offering services for diagnosis, treatment or care for illness, disease, injury, deformity, abnormality or pregnancy in any system of medicine; or
- (ii) an entity owned, established, administered or managed by any person or body of persons, whether incorporated or not, either as an independent entity or as a part of any clinical establishment referred to in sub-clause (i), which carries out diagnosis of diseases through pathological, bacteriological, genetic, radiological, chemical, biological investigations or other diagnostic or investigative services with the aid of laboratory or other medical equipment, but does not include an establishment, owned or controlled by—
 - (a) the Government; or
 - (b) a local authority;]

17. The learned Commissioner in the impugned order denied the benefit of exemption Notification observing that appellant do not fall under the category of health care services by a clinical establishment, an authorised medical practitioner or para-medics as mentioned under the said notification. Since the appellant is a medical college and providing health facilities which has been as per the Rules framed by the MCI, therefore, it is incorrect to say that it is not a clinical establishment and not providing healthcare services to the beneficiaries of the card issued. Therefore, the beneficiaries of the card since avail the benefit of health services from the appellant, accordingly, the same is

covered by the Mega Exemption Notification No. 25/2012-ST dated 20.06.2012.

18. On the issue of levy of service on 'Legal Services' received by the appellant under RCM basis under Rule 2(1)(d)(i)(D)(II) of the Service Tax Rules, 1994. It is the claim of the appellant that they are registered as a Charitable Trust acknowledged under Section 12AA of the Income Tax Act being not a 'Business Entity' as defined under Section 65B(17) of the Finance Act, 1994, therefore, not required to pay service tax on the Legal Services received by them during the period. The learned Commissioner on the other hand confirmed the demand observing that appellants are also carrying out various commercial activities, such as renting-out their premises, etc., therefore, they would be called as Business Entity. We find that the Hon'ble High Court in the case of **India Advantage Fund-III vs. Commissioner of Central Tax: (2024) 15 Centax 495 (Kar.)/2024 (388) E.L.T. 276 (Kar.)** which was later appealed and confirmed by the Hon'ble Supreme Court in the case of **Commissioner of Central Tax, Bangalore vs. India Advantage Fund: (2024) 23 Centax 150 (S.C.)**, in view of this judgment appellant being a Trust cannot be subjected to service tax levy during the relevant period. , therefore, levy of service tax on legal services on RCM basis also cannot be sustained.

19. Besides, we find that all the transaction are duly documented and the Arogya Suraksha Scheme, Health Card Scheme and the activities of the appellant, etc., are made known to the public at large by publishing in the print media and the amount received are duly recorded in their books of account which were subjected periodical audit by the Department, therefore, confirmation of demand by invoking extended period of limitation, in our opinion, cannot be sustained. Consequently, the demand also fails on limitation.

20. In the result, the appeal succeeds both on merit as well as on limitation. Consequently, the impugned order is set aside and the appeals are allowed with consequential relief, if any, as per law.

(Order pronounced in Open Court on 21.04.2026.)

(D.M. MISRA)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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