CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. 4

E-HEARING

Service Tax Appeal No. 50939 of 2019

(Arising out of Order-in-Original No. 01/COMMR/ST/IND/2019 dated 18.01.2019 passed by the Commissioner of Central Goods & Service Tax & Central Excise, Indore)

Devi Ahilya Vishwavidhyalaya (University) **Appellant**
University Campus, R.N.T. Marg,
Indore – 452001.

Versus

Commissioner, Central Goods & Service Tax & Central Excise, Indore **Respondent**
Manik Bagh Palace,
Indore-452001.

Appearance:

Present for the Appellant: Shri Manoj Munshi & Ms. Mahak Guru, Advocates

Present for the Respondent: Shri Anand Narayan, Authorized Representative

CORAM:

Hon'ble Dr. Rachna Gupta, Member (Judicial)
Hon'ble Ms. Hemambika R. Priya, Member (Technical)

Date of Hearing/Decision : 22/05/2025

Final Order No. 50801/2025

Dr. Rachna Gupta:

M/s Devi Ahilya Vishwavidhyalaya (University)[1] is engaged in imparting higher education to the aspirant students and is registered with the service tax department in the category of convention services. Based on an intelligence, it was observed that the appellant have received service tax on following affiliation fee:

[1] the appellant

(i) for the period July 2012 to June 2017 amounting to Rs. 4,63,59,672/-

(ii) for the period July 2012 to June 2017 amounting to Rs. 5,74,932/- ands

(iii) for the period July 2012 to March 2013 amounting to Rs. 2,36,657/- attracting service tax liability of Rs. 47,17,261/-.

2. In addition the appellant have received the rental income for renting out buildings to banks, post offices, canteen, coffee house etc. for rendering taxable service of Renting of Immovable Property Service. Also although the appellant has submitted that service tax in respect of convention services has been paid, but in ACES systems the details of challans furnished by the appellant is not reflected nor appellant had filed ST-3 returns for the period 2012-13. Hence service tax is found recoverable from appellant for rendering both the said taxable services.

3. However, the appellant was found not discharging the service tax liability *qua* the said amount despite that the amounts have received for rendering the taxable services. Resultantly, vide Show Cause Notice No. 39/2018 dated 27.3.2018 following amount of service tax was proposed to be recovered from the appellant along with proportionate interest and the appropriate penalties:

(i) Service tax on affiliation fee for the period July 2012 to June 2017 amounting to Rs. 4,63,59,672/- (inclusive of cess);

(ii) Service tax in respect of rent received by the appellant from building during the period July 2012 to June 2017, amounting to Rs. 5,74,932/- (inclusive of cess);

(iii) Service tax in respect of Convention Service provided for the period July 2012 to March 2013 amounting to Rs. 2,36,657/- (inclusive of cess).

The proposal was confirmed vide Order-in-Original No. 01/2019 dated 18.1.2019. Being aggrieved, the appellant is before this Tribunal.

4. We have heard learned counsels for the appellant and learned Departmental Representative for Revenue.

5. Learned counsel for the appellant has mentioned that the issue of taxability of the amount received as affiliation fee is no more res integra. It stands decided vide several decisions initially vide the decision of Hon'ble High Court Karnataka in the matter of **M/s Rajeev Gandhi University of Health Sciences Principal Additional Director General and Ors.**[2] The said decision has been followed in various other subsequent decisions by this Tribunal as well. Reliance is placed upon the decision of Hon'ble High Court Bombay and Goa in the case titled **as Goa University Vs. Joint Commissioner, CGST**[3]**.**

6. With respect to the amount received for rendering Renting of Immovable Property Service and Convention Service, the liability has been acknowledged by the learned counsel. In view of the

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2 Writ petition No. 57941/2018 dated 26.7.2022
3 Writ Petition No. 723/2024

submissions the order under challenge is prayed to be modified by setting aside the demand of service tax vis-à-vis the amount of affiliation fee. The appeal is prayed to be allowed partly.

7. Learned Departmental Representative on other hand, has reiterated the findings of the impugned order. However, the decisions of the High Court and the Tribunal as well with respect to the taxability of affiliation fee have been conceded. Appeal is prayed to be disposed of accordingly.

8. Having heard both the sides and perusing the entire record of the appeal and the decisions as relied upon by the appellant we find that only issue which remains to be adjudicated is:

(i) Whether affiliation fees received by the university from the colleges for imparting education is liable to Service Tax/GST?

9. The word 'affiliation' is first examined, which has yielded income to the university. This word is not defined in the Finance Act. The word 'affiliation' is derived from Latin word '*affiliare'* which means 'to adopt as a son'. In **Ramanath Iyer's 'The Law Lexicon**[4]**,** it is described as under:

> *"Affiliation' of college. To university means such a connection between an existing university and a college as shall be entered into by their mutual consent, under the conditions approved by the University Commissioners or other proper authorities."*

The Apex Court in **Bhartiya Education Society Vs. State of Himachal Pradesh**[5] observed:

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4 2nd Edition Reprint 2010, LexisNexis
5 (2011) 4 SCC 527

> *"In the context of NCTE Act, '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……."*

Affiliation creates a kind of umbilical chord between affiliating body and the affiliated entity.

10. The issue about affiliation fee received by the universities and the taxability thereof stands already decided by the Hon'ble High Court Karnataka in the case of **M/s Rajiv Gandhi University of Health Science** (supra) wherein it is held that service tax cannot be levied on affiliation fee and fees collected for other incidental activities by the universities for providing educational services.

11. It was held:

> *"The negative list Section 66D of the Finance Act are not chargeable to service tax Clause (I) of Section 66D of the Finance Act covers services provided by educational institutions and consequently the educational services are not chargeable to service tax. Noted that, the Petitioner has to be considered as an Educational Institution for imparting education by itself and also through its affiliated colleges. Therefore, the said universities would qualify to be educational institutions and services provided would not be chargeable to tax on the affiliation and other incidental charges collected by Petitioner. Held that, in furtherance to imparting education some of the buildings for canteen, bank are rented out, the said activity has to be considered as an activity incidental to provide services of education and it is a service naturally bundled in the ordinary course of business as per Clause (3) of Section 66 (F) of the Finance Act and the rent received also deserves to be exempted once the activity of providing education by the Petitioner is exempted from Service Tax.*
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> *The Revenue preferred an appeal against the aforesaid order and the Division Bench of the Karnataka High Court in WA No. 856/2022 vide its order date 30/07/2024 has affirmed the findings and judgments of the learned Single Judge by passing reasoned and speaking order."*

12. This Tribunal also in Service Tax Appeal No 53479 of in the matter of **M/s Madhya Pradesh Medical Science University VERSUS Commissioner, (CGST,CE&C)**[6] has in para 7 held that:

> "7. Moreover, it is pertinent to note that the appellant is a university which decides the Curriculum of the colleges, conducts examination and awards, degrees to the students including those studying in the affiliated colleges. In this background, the affiliation fee collected by the appellants from the affiliated colleges is to be considered for providing the service to institution in relation to education, which is exempt by virtue of sub-clause (i) of Clause L of No. section 66D of the Finance Act, 1994. Moreover, as per Entry No. 25/2012-ST dated 20.06.2012, as amended by Notification No. 6/2014-ST dated 11.07.2024 services provided by an educational institution to its students, faculty and staff as well as certain services received by educational institution are exempt. In the instant case, the appellant themselves are a university and the services, if any, provided by the appellants and received by the affiliated colleges which are none other than educational institutions. This should leave no scope for any doubt as to the exigibility of the services rendered by the appellant to the affiliated colleges in consideration to application fee collected."

13. Hon'ble Madras High Court in case of **Bharathidasan University Rep. by its Registrar Vs. the Joint Commissioner of GST and Central Excise**[7] and in case of **Pudduchery University Vs. Joint Commissioner of GST & Central Excise**[8] has answered the issue of service tax on affiliation fees and renting of immovable property to post office and banks in favor of the university. It has been held that :

> "Therefore, the affiliation activity is an integral part of imparting education for any student for getting qualified to get a qualification like degree or diploma. Accordingly, the services provided by the educational institution like the petitioner institution ie., the university' to give affiliation can be an integral part of the educational services, being provided jointly, both by the University and the college. The college cannot independently junction without the affiliation of the university. Therefore, for the purpose of providing the service of education, both the university as well as he

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6 Final Order No. 50265/2024 dated 12.02.2024

7 WP (MD) No. 8353 of 2019 and WMP (MD) No. 6567 of 2019

8 WP No. 15333 of 2020

> college concerned, who get affiliated to the university cannot be separated."

14. We do not find any reason to differ from these decisions. No fact is found distinguished in the present appeal nor has been brought to the notice. In view thereof, service tax demand with respect to the amount of 'affiliation fee' received by the appellants during the period of dispute is held to have wrongly been confirmed. The adjudicating authority has not followed the judicial protocol.

15. In the light of above discussion, the demand of service tax on amount of 'affiliation fee' stands set aside. However, the demand of service tax on amount of rent received and on amount received for Convention Services is hereby upheld. Accordingly, the impugned order/order-in-original dated 18.1.2019 stands modified. Consequently, appeal stands partly allowed.

(Dictated & pronounced in open Court)

(Dr. Rachna Gupta)
Member (Judicial)

(Hemambika R. Priya)
Member (Technical)

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