

AUTHORITY FOR ADVANCE RULING, TAMILNADU
DOOR NO.32, INTEGRATED COMMERCIAL TAXES OFFICE COMPLEX
5TH FLOOR, ROOM NO. 503, ELEPHANT GATE BRIDGE ROAD,
CHENNAI -600 003.

PROCEEDINGS OF THE AUTHORITY FOR ADVANCE RULING U/s.98 OF THE
GOODS AND SERVICES TAX ACT, 2017.

Members present are:

1. Shri B. Senthilvelavan, I.R.S., Additional Commissioner/Member,
Office of the Principal Chief Commissioner of GST & Central Excise, Chennai -34
2. Thiru Kurinji Selvaan V.S., M.Sc., (Agri.), M.B.A., Joint Commissioner (ST)/ Member,
Office of the Authority for Advance Ruling, Tamil Nadu, Chennai-6.

ORDER No.37/ARA/2020 Dated: 19.11.2020

GSTIN Number, if any / User id		33AAAJB1479J1ZD
Legal Name of Applicant		Bharathiyar University
Trade Name of the Applicant		Bharathiyar University
Registered Address / Address provided while obtaining user id		Marudhamalai Road, Coimbatore, Tamilnadu-641046
Details of Application		Form GST ARA - 001 Application Sl.No.04/2020 dated 06.02.2020
Concerned Officer		State: Assistant Commissioner, Velandipalayam Assessment Circle Centre: Coimbatore Commissionerate Division: Coimbatore I
Nature of activity(s) (proposed / present) in respect of which advance ruling sought for		
A	Category	Service Provision.
B	Description (in brief)	The applicant is said to engaged in activity to affiliate colleges to university as affiliated, professional or post graduate colleges; to approve colleges providing course of study for admission to the examinations for titles and diplomas of the University ; to designate any college as an autonomous college with the concurrence of the Government in the manner under conditions prescribed.

Issue/s on which advance ruling required	1. Applicability of notification issued under the provisions of this act 2. Determination of liability to pay tax on any services
Question(s) on which advance ruling is required	Whether the services provided by the University to its constituent colleges (viz) self-financing and management colleges relating to admission to, or conduct of examination by such institution by way of affiliation fee, registration fee such as 1. Application form fees 2. Application fees (Application * Registration fee) (each course/section) 3. Inspection fees (each course/section) 4. Affiliation fee for each course 5. Affiliation fee for each additional section 6. Initial affiliation fee to start an institution 7. Permanent Affiliation fee to the College 8. Continuation of affiliation for each course 9. increase in intake for each course for permanent basis, processing fee & 10. Penal fee for receipt of late application are exempted vide sl.no 66 of Notification No.12/2017 CT(Rate) dated 28.06.2017

Note: Any appeal against the Advance Ruling order shall be filed before the Tamil Nadu State Appellate Authority for Advance Ruling, Chennai under Sub-section (1) of Section 100 of CGST ACT/TNGST Act 2017 within 30 days from the date on which the ruling sought to be appealed against is communicated.

At the outset, we would like to make it clear that the provisions of both the Central Goods and Service Tax Act and the Tamil Nadu Goods and Service Tax Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the Central Goods and Service Tax Act would also mean a reference to the same provisions under the Tamil Nadu Goods and Service Tax Act.

Bharathiar University, Marudhamalai Road, Coimbatore, Tamilnadu-641046 (hereinafter called the 'Applicant') is registered under the GST Vide GSTIN 33AAAJB1479J1ZD. They have sought Advance Ruling on

Whether the services provided by the University to its constituent colleges (viz) self-financing and management colleges relating to admission to, or conduct of

examination by such institution by way of affiliation fee, registration fee such as

1. Application form fees
2. Application fees (Application * Registration fee) (each course/section)
3. Inspection fees (each course/section)
4. Affiliation fee for each course
5. Affiliation fee for each additional section
6. Initial affiliation fee to start an institution
7. Permanent Affiliation fee to the College
8. Continuation of affiliation fee for each course
9. increase in intake for each course for permanent basis ,processing fee
10. Penal fee for receipt of late application

are exempted vide sl.no 66 of Notification no.12/2017 CT(Rate) dated 28.06.2017. The Applicant has submitted the copy of application in Form GST ARA - 01 and also submitted a copy of Challan evidencing payment of application fees of Rs.5,000/- each under sub-rule (1) of Rule 104 of CGST rules 2017 and SGST Rules 2017.

2.1 The applicant has stated to engage in activities to affiliate colleges to university as affiliated, professional or post graduate colleges under conditions prescribed and to withdraw affiliation from colleges, to approve colleges providing course of study for admission to the examinations for titles and diplomas of the University under conditions prescribed and to withdraw such approval, to designate any college as an autonomous college with the concurrence of the Government in the manner and under conditions prescribed and to cancel such designation. They have stated that CBE&C vide e-flyer No 40 dated 01-01-2018 stated that the GST Act tries to maintain a fine balance whereby core educational services provided and received by educational institutions are exempt and other services are sought to be taxed at the standard rate of 18%. Further, they have stated that the CBE&C vide its Press Release No. 69/2017, dated 07.07.2017 has clarified that there were some press reports that education would become expensive under GST that those were completely unsubstantiated and that there was no change made in any subject relating to education in the GST era.

2.2 The applicant has further stated that prior to 01-07-2017, no service tax was charged by the University from the affiliated colleges on the fees in question. Whereas, the Principal Secretary to Government of Tamil Nadu, Higher Education(A2) Department, Secretariat, Chennai -9 vide letter no 11555/A2/2017-5 dated 25-10-2018 directed the Universities in Tamil Nadu to demand GST @18% (Central tax 9% + State tax 9%) on the above fees, collected from the colleges affiliated to the concerned university and also demanded arrears of tax for the past period. The applicant has stated that in GST act, the Classification of Education Services is defined as below:

- a) Classification of Education Services -Education Services are classified in heading 9992 (as per Notification No. 11/2017-C.T. (Rate))
- (b) The Central Govt by way of Notification No 12/2017- Central Tax (Rate) dated the 28th June, 2017 provides exemption for various services and as per Sl.No. 66 pertaining to Heading 9992 or Heading 9963, GST on services provided to an educational institution, by way of services relating to admission to, or conduct of examination by, such institution is exempted.

2.3 The applicant on their interpretation of law and/or facts has stated that with respect to the notification No. 12/2017-C.T.(Rate), the activities enlisted in the Section 4 of the Bharathiar University Act 1981(Tamil Nadu Act 1 Of 1982) are most relevant to decide the eligibility under the said notification.

The relevant sub sections of Section 4 of the Bharathiar University Act 1981(Tamilnadu Act 1 Of 1982) is as follows:-

4.Objects and powers of the University: The University has the objects and powers, namely:-

- to hold examinations and to confer degrees, titles, diplomas and other academic distinctions on persons who-
 - (a) shall have pursued an approved course of study in a University college or laboratory or in an affiliated or approved college, unless exempted therefrom in the manner prescribed by the statutes and shall have passed the prescribed examinations of the University; or
- to confer degrees, titles, diplomas and other academic distinctions of persons who shall have pursued an approved course or study in an autonomous college;

- to affiliate colleges to the University as affiliated, professional or post graduate colleges under conditions prescribed and to withdraw affiliation from colleges;
- to approve colleges providing course of study for admission to the examinations for titles and diplomas of the University under conditions prescribed and to withdraw such approval;
- to designate any college as an autonomous college with the concurrence of the Government in the manner and under conditions prescribed and to cancel such designation;

The applicant has referred to Section 2 of the Bharathiar University Act 1981 (Tamilnadu Act 1 of 1982) and the relevant definitions mentioned therein viz, extracted below:

- (a) "affiliated college" means any college situated within the University area and affiliated to the University; and providing courses of study for admission to the examinations for degrees of the University and includes a college deemed to be affiliated to the University under this Act;
- (b) "approved college" means any college situated within the University area and approved by the University and providing courses of study for admission to the examinations for titles and diplomas of the University and includes a college deemed to be approved by the University under this Act;
- (c) 'Autonomous college' means any college designated as an autonomous college by statutes;
- (d) 'College' means any college or any institution maintained or approved by, or affiliated to, the University and providing course of study for admission to the examinations of the University [* *I

Further section 39 and 40 on Admission to University examinations/attendance depicts that

Section 39: No candidate shall be admitted to any University examination unless he is enrolled as a member of a University college or laboratory or of an affiliated or approved college and has satisfied the requirements as to the attendance required under the regulations for the same or unless he is exempted from such requirements of enrolment or attendance or both by an order of the Syndicate passed on the recommendation of the Standing Committee on Academic Affairs made under the regulations prescribed. Exemptions granted under this section shall be subject to such conditions as the Syndicate may think fit.

Section 40:- Attendance qualifying for University examinations. - No attendance at instruction given in any college or institution other than that conducted, affiliated or approved by the University shall qualify for admission to any examination of the University.

The applicant has stated that from the above facts it is evident that the services rendered by them to the colleges (viz) self-financing and management colleges is in relation to services relating to admission to, or conduct of examinations by such institution by way of affiliation, registration etc, hence the applicant has stated that the services rendered by them are exempted under Sl.No.66b(iv) of Notification 12/2017-CT(Rate) dated 28.06.2017.

2.4 The applicant has also submitted the letter No.11545/A2/2017-5 dated 25.10.2018, wherein the annexure the clarifications have been given for affiliation fees viz extracted below:

Annexure to Government letter No.11545/A2/2017, dated 25.10.2018

AFFILIATION FEES PAID BY COLLEGES

S. No (1)	Nature of Fees (2)	Clarifications (3)
1	Application Form Fees	This is service provided by an educational institution to public and not specific to its students. Only after admission, the public becomes students of such educational institution. Hence, this service would fall outside the definition of "services provided by an educational institution to its students, faculty and staff. Therefore, this is taxable under GST
2	Application Fees (each course/section)	This is service provided by an educational institution to public and not specific to its students. Only after admission, the public becomes students of such educational institution. Hence this service would fall outside the definition "services provided by an educational institution to its students, faculty and staff. Therefore, this is taxable under GST
3	Inspection Fees (each course/section)	This service would fall outside the definition "services provided by an educational institution to its students, faculty and staff. Hence this is taxable under GST
4	Affiliation Fee for each Course	This service would fall outside the definition "services provided by an educational institution to its students, faculty and staff. Therefore, taxable under GST.
5	Affiliation Fee for each additional section	This service would fall outside the definition "services provided by an educational institution to its students, faculty and staff. Hence, taxable under GST.
6	Initial Affiliation fee to start an institution	This service would fall outside the definition "services provided by an educational institution to its students, faculty and staff. Hence, taxable under GST
7	Permanent affiliation fee to the College	This service would fall outside the definition "services provided by an educational institution to its students, faculty and staff. Therefore,

8	Continuation of affiliation for each course	This service would fall outside the definition "services provided by an educational institution to its students, faculty and staff, as this is not part of a curriculum and hence taxable under GST
9	Increase in intake for each course for permanent basis - processing fee	This service would fall outside the definition "services provided by an educational institution to its students, faculty and staff. Hence, taxable under GST
10	Penal fee for receipt of late application	This service would fall outside the definition "services provided by an educational institution to its students, faculty and staff. Therefore, this is taxable under GST.

3.1 Due to the prevailing PANDEMIC situation and in order not to delay the proceedings, the applicant was addressed through the Email Address mentioned in the application to seek their willingness to participate in a virtual Personal Hearing in Digital media vide e-mail dated 09.07.2020. The applicant consented and the hearing was held on 17.09.2020. The authorised representative participated in the hearing. He furnished a written submission through email which was taken on record and he reiterated the same. The representative stated that in pre-GST regime, demand on the said receipts under Service Tax was made which is settled under the SVLDRS scheme. He stated that the proceeding in Pre-GST regime is based on provisions of Chapter V of Finance Act 1994 and the Advance Ruling is sought under CGST/TNGST Act 2017. The representative emphasized that 'affiliation' is the Principal supply bundling the admission to conduct of examination and relied on Section 4 of the Bharathiar University Act, 1982. He claimed that the benefit of exemption at Sl.No.66 (b)(iv) is available to them from 25.01.2018 after the words up to higher secondary was omitted from the said entry of Notification No.12/2017 vide Notification No. 02/2018 CT(rate) dated 25.01.2018.

3.2 The applicant vide their written submission during the Personal Hearing has stated, inter-alia, as follows:

➤ They are charging the following fee from the affiliated Colleges:

1. Application Form Fees: The fee collected towards the application form. (sale of goods)
2. Application fees (Application * Registration – each Course / Section)
This is the fees collected along with the application for a new course by a college.
3. Inspection Fees (each Course/Section): This fees is being collected from the

college for the inspection to be conducted for the sake of new course as per Section 8 readwith Section 25 of The Bharathiar University Act, 1981.

4. Affiliation fees for each course: The fees is collected to give affiliation to a course after inspection.

5. Affiliation fees for each additional section: This is the fee collected from the college to provide additional section in the existing affiliated course.

6. Initial affiliation fees to start an institution: This is the fee collected to affiliate the institution.

7. Permanent affiliation fee to the college: This fee is collected from the college for each course after completion of 3 years for UG course / 2 years for PG courses.

8. Continuation of affiliation for each course: Continuation of affiliation is claimed for any UG course before it is permanently affiliated.

9. Increase in intake for each course for permanent basis-processing fee:
Fee collected to increase the intake for each course approved on a permanent basis.

10. Penal fee for receipt of late application: This fee is collected when the colleges apply after the deadline date meant for presenting the application.

- Section 2(30) of the GST Act defines 'Composite Supply' and applying the same, "affiliation" is the principal supply and the above other activities are naturally bundled with the principal activity of affiliation of the colleges to the university. The purpose of affiliation of the colleges to the university is admission of students and/or conduct of examinations for the purpose of getting a degree etc
- The service provider is the University. The Service recipient is the colleges; service is affiliation of the colleges with the university; Consideration is the fee collected under the above heads.
- All the above fees are collected in line with the service offered by the university to the colleges which in turn extends the benefit for the education of the students from the affiliated colleges. For admission to University examination(Section 39), attendance under Section 40 is required and affiliation is in relation to admission and conduct of examination
- Entry Sl.No. 66(b) of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 as amended vide Notification No. 02/2018 dated 25.01.2018 is on the services provided to an educational institution by way of (iv) Services relating to admission to, or conduct of examination by, such institution and they are covered under the said entry. They are rendering services to the affiliated colleges relating to admission to, or conduct of examination by such institution (affiliated colleges). All

the ten items covered in the application are in relation to affiliation and the affiliation is in relation to or conduct of examination and hence exempted as per the said entry.

- In the Letter No.11545/A2/2017 dated 25.10.2018 of the Higher Education Department, Chennai, correct interpretation of the wordings under Sl.No. 66 of Notfn No. 12/2017 as amended was not given properly. It has discussed the service by an educational institution to its students and not about to an educational institution services relating to admission to, or conduct of examination by, such institution.
- They are seeking advance ruling under CGST/SGST Act 2017 and so the decision any taken by the Department under Finance Act 1994 has no binding effect with respect to the decision/ ruling under CGST Act/SGST Act.
- During Service Tax period, they had not taken any service tax registration and had not filed any ST-3 returns by self-assessments. A Show Cause Notice was issued and culminated in Order-in-Original C.No. V/RIP/15/18/2018 ST Adj Order Sl.No. 09/2018-Commr dated 10.12.2018. The demand was confirmed on the ground that these services were not covered under the definition of "Auxiliary Services". But no such wordings are there in the GST period. Hence the order passed by the Commissioner has no impact from 01.07.2017. They have settled the issue under Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019.
- The above Order of the Commissioner confirmed on a different ground based on the wordings under the Chapter V of Finance Act 1994 and Notfn made thereunder could not be applied for a advance Ruling under the GST Act, since wordings under CGST Act 2017 and Notification issued thereunder are different and advance ruling is sought only under CGST/TNGST Act 2017

3.3 The applicant along with their written submissions also submitted the following documents:

- Order-in Original 09/2018 dated 10.12.2018 issued by the Principal Commissioner, Coimbatore
- Form SVLDRS 1
- Form SVLDRS 3 No: L230120SV301597
- Form SVLDRS 4 No: L250220SV400186

4. The applicant is under the administrative Jurisdiction of Central Tax Authorities and the central jurisdictional authority vide their letter dated 24.08.2020 submitted

that no such questions raised in the application is pending or decided in any proceedings under the provisions of the CGST Act 2017. The authority has stated that the above mentioned fees falls under the general functions by the University to colleges regarding approval for a college, approval for a course, start-up approval, permanent affiliation, continuation of affiliation for each course, permission for increase in intake for each course and penal fee for Late Application and such collection of fees appeared to be not relating to admission to or conduct of examination, by such institution. These services would not fall under the ambit of the exemption provided in the said Notification. Also, as per the wording of the Notification only the services relating to admission or to conduct examination, by such institution i.e only the services relating admission of students or conduct of examination is exempted and the other above services are chargeable to applicable GST. Hence, they have stated that the applicant is not eligible for the exemption provided under Sl.No.66 of the above notification.

5. The State jurisdictional authority has not furnished any comments and it is construed that there are no proceedings pending on the issue raised by the applicant.

6. We have carefully examined the statement of facts, supporting documents filed by the Applicant along with application, oral and written submissions made at the time of Virtual hearing and the comments of the Central Tax Authority. The applicant is a University established under the Bharathiyar University Act. They undertake activities related to affiliation of colleges as affiliated, professional or post graduate colleges under conditions prescribed and to withdraw affiliation from colleges; to approve colleges providing course of study for admission to the examinations for titles and diplomas of the University under conditions prescribed and to withdraw such approval; to designate any college as an autonomous college with the concurrence of the Government in the manner and under conditions prescribed and to cancel such designation and collect various fees in this regard from the institutions. The applicant has sought ruling on the following question:

Whether the services provided by the University to its constituent colleges (viz) self-financing and management colleges relating to admission to, or conduct of examination by such institution by way of affiliation fee, registration fee such as Application form fees; Application fees (Application * Registration fee) (each course/section); Inspection fees (each course/section);Affiliation fee for

each course; Affiliation fee for each additional section; Initial affiliation fee to start an institution; Permanent Affiliation fee to the College; Continuation of affiliation fee for each course; increase in intake for each course for permanent basis ,processing fee; Penal fee for receipt of late application are exempted vide sl.no 66 of Notification no.12/2017 CT(Rate) dated 28.06.2017.

It is stated by the applicant that in the Pre-GST regime, they have been issued with a demand of Service Tax on the fees for which the eligibility of exemption under Sl.No.66 of Notification No. 12/2017-C.T.(R) is sought before this authority. They have further claimed that the application is now made under the GST Provisions and therefore the application is to be admitted. As per the first proviso to Section 98 of the GST Act, the Authority shall not admit the application where the question raised is pending or decided in any proceedings in the case of applicant under any provisions of the GST Act. From the comments received from the Central Tax Authority , it is evident that there is no pending proceedings in respect of the question raised under the provisions of GST Act and therefore, the application is admissible. Also, the question raised is on the eligibility of the Notification to the service supplied by them. Therefore, the application is admitted and the question for which ruling is sought is taken up for decision.

7.1 The facts of the case as seen from the records before us is that the applicant is a University established with the object - to affiliate colleges to the University as affiliated, Professional or postgraduate colleges under conditions prescribed and to withdraw affiliation from colleges (Section 4(9) of the Bharathiar University Act); to approve colleges providing courses of study for admission to the examinations for titles and diplomas of the University under conditions prescribed and to withdraw such approval(Section 4(10) of the Bharathiar University Act); among other objects stipulated in the said Act. It is stated that they collect various fees from the Institutions who seek affiliation, Viz., 1.Application Form fees; 2. Application fees(Application * Registration fees(each course/Section));3. Inspection Fees (each course/Section); 4. Affiliation fee for each course; 5. Affiliation fee for each additional section;6. Initial Affiliation fee to start an institution; 7. Permanent Affiliation fee to the College; 8. Continuation of affiliation fee for each course; 9.increase in intake for each course for permanent basis ,processing fee; 10.Penal fee for receipt of late application. It is the contention of the applicant that "affiliation" is the principal supply and the above other activities are naturally bundled with the principal activity of affiliation of the colleges to the university and the purpose of affiliation of

the colleges to the university is admission of students and/or conduct of examinations for the purpose of getting a degree and therefore the exemption provided under Sl.No. 66(b)(iv) of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 as amended by Notification No.2/2018 with effect from 25.01.2018 is applicable to the said supply made by the applicant to the Self-financing and Management Colleges.

7.2 From the submissions of the applicant, it is seen that the applicant collects application Form fees, Application fees(Application * Registration fees(each course/Section)), Inspection Fees (each course/Section), Affiliation fee for each course, Affiliation fee for each additional section, Initial Affiliation fee to start an institution, Permanent Affiliation fee to the College, Continuation of affiliation fee for each course, increase in intake for each course for permanent basis ,processing fee and Penal fee for receipt of late application and all these fees are stated to be collected by the applicant to receive, process and decide on issuance of affiliation to the institution/course to the institution seeking the same. Before proceeding further, We find that the applicant is a University established vide Tamilnadu Universities Act 1 of 1982 and listed as a State University in the UGC (Affiliation of Colleges by the Universities) regulations 2009(hereinafter referred to as the 'regulation') published in the Gazette on 20th February 2010. Regulation 2 defines 'affiliation', 'College', 'Course', 'Programme of Study', 'Student' as

2.1. "affiliation" together with its grammatical variations, includes, in relation to a college, recognition of such college by, association of such college with, and admission of such college to the privileges of, a university;

2.2. "college" means any institution, whether known as such or by any other name which provides for a programme of study beyond 12 years of schooling for obtaining any qualification from a university and which, in accordance with the rules and regulations of the university, is recognized by the UGC as competent to provide for such programme of study and present students undergoing such programme of study for the examination for the award of such qualification;

2.4. "course" means one of the units which comprise a programme, of study;

2.5. "programme" / "programme of study" means a higher education programme pursued for a degree specified by the Commission under Section 22(3) of the UGC Act;

2.7. "student" means a person admitted to and pursuing a specified programme of study;

Thus, affiliation in relation to a college as defined under 2.2 of the regulation, is recognition of such college to be eligible for association with and admission of such college to the privileges extended by a University. Further regulation 3 gives the 'Eligibility Criteria for Temporary Affiliation'; regulation 4 gives 'Procedure for granting Temporary Affiliation', wherein under 4.5 it is stated that the University is to cause a preliminary scrutiny of the application and if found satisfactory should give a letter of intent and have to cause inspection for physical verification of the details in the application by a committee of experts constituted as per regulation 4.6 and thereon as per regulation 4.9, the Syndicate/Executive Council of the University decides on the grant/ non-grant of affiliation. Also as per regulation 4.10, continuation of the 'Temporary affiliation' is to be granted on a year to year basis through inspection process prescribed in the regulation. Regulation 5 gives the 'Eligibility Criteria for Permanent Affiliation' and Regulation 6 gives the 'Procedure for granting Permanent Affiliation', which proposes for inspection and similar activities to be undertaken by the University and the desiring institutions are to file the application with the prescribed fee after satisfying the related criteria. Regulation 7 speaks on 'Eligibility to apply for addition of new programmes of study'; Regulation 8, which provides for 'Withdrawal of affiliation'. Thus, from the above regulations, it is seen that any institution within the jurisdiction of a University who wish to conduct a course/programme of study extended by the University has to apply in the prescribed Application with all the required details/documents for affiliation with the University, pay the required fees and the University after following the stipulated regulations including inspection may or may not extend the affiliation. In the case at hand, the ruling is sought in respect of such application/registration fees, inspection fees, affiliation fees, etc and the applicant claims that 'affiliation' is the principal supply and the sale of application, registration of course, Inspection for approval of such course, grant of affiliation etc are the activities which are naturally bundled with the principal activity of affiliation of the college.

7.3 Composite supply is defined under Section 2 (30) of the GST Act as follows:

(30) "composite supply" means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

Applying the above to the case at hand, it is seen that the sale of application, registration, inspection are all supplies which are naturally bundled and supplied in conjunction in the course of the activity of extending affiliation. Thus, all the fees in question collected by them and the supplies thereto results in the activity of affiliation of the institution, upgradation, increase in the capacity/course, etc and are governed by the UGC regulation discussed in Para 7.2 above. Therefore, we agree with the claim of the applicant that the entire gamut of activities for which the fees in questions are collected is a 'composite supply' with extending 'affiliation' to an institution of higher education being the 'Principal Supply'.

7.4 Having said so, the entry under which exemption is claimed is taken up for analysis. The entry at Sl.No.66 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 is as follows:

66	Heading 9992	<p>Services provided -</p> <p>(a) by an educational institution to its students, faculty and staff;</p> <p>(b) to an educational institution, by way of,-</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 house-keeping services performed in such educational institution;</p> <p>(iv) services relating to admission to, or conduct of examination by, such institution; upto higher secondary;</p> <p>Provided that nothing contained in entry (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent.</p>	Nil	Nil
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The above entry is amended by Notification No. 02/2018-C.T.(Rate) dated 25.01.2018 and the amendment is as under:

(o) against serial number 66, in the entry in column (3).-

(i) after item (a), the following item shall be inserted, namely:-

“(aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee.”;

(ii) in item (b).-

(A) in sub-item (iv), the words “upto higher secondary” shall be omitted;

(B) after sub-item (iv), the following sub-item shall be inserted, namely:-

“(v) supply of online educational journals or periodicals.”;

(C) in the proviso, for the word, brackets and letter “entry (b)”, the words, brackets and letters “sub-items (i), (ii) and (iii) of item (b)” shall be substituted;

(D) after the proviso, the following proviso shall be inserted, namely:-

“Provided further that nothing contained in sub-item (v) of item (b) shall apply to an institution providing services by way of,-

(i) pre-school education and education up to higher secondary school or equivalent; or

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

The applicant claims that the services extended by them are the ‘services provided to an educational institution by way of services relating to admission to, or conduct of examination by, such institution’ and effective from 25.01.2018, i.e. after the words ‘upto higher secondary’ stands omitted as per entry (o) (ii) (A) of Notification 2/2018 in the entry 66(b)(iv) of the Notification 12/2017-C.T.(Rate), their activity of affiliation merits exemption under the said entry. It is their contention that the fees collected & the activities undertaken towards affiliation of the institution, course, extension of course, etc are services provided to ‘educational institutions’, ‘in relation to’ admission & conduct of examination in as much as the institution cannot admit a student without affiliation and the student cannot take the examination unless he is registered with the university through the college as per section 39/Section 40 of the Bharathiar University Act 1982.

7.5 In this regard, it is pertinent to examine the comments of the Fitment Committee as seen in the agenda notes placed before the 25th meeting of the GST Council and the minutes of the said meeting as the decision of the said meeting was effected vide Notification No. 2/2018-C.T.(Rate) dated 25.01.2018. Reference to the discussions and the decisions of the GST Council, a Constitutional Body, is to understand the intention of the amendment. The relevant recommendation of the ‘Fitment Committee’ accepted by the Council is given below for ease of reference:

Sl. No.	Represented By	Proposal	Justification	Comments of Fitment Committee
23	Reference from PMO based on feedback received on issues and problems faced in GST.	To address taxability and GST exemption on admission fee charged by educational institutions and entrance fee charged for appearing in entrance examinations for getting admission into	With a view to promote education, achieve higher gross enrolment ratio and enhance and upgrade education and skill levels of the students GST exemption may be provided for conduct of entrance examination.	<p>1. Services provided by an educational institution to its students are exempt [Notification No. 12/2017-Central Tax (Rate) S.No. 66(a)]. Educational institution has been defined to mean an institution providing services by way of - <i>Preschool and school education upto higher secondary school or equivalent; Education as part of curriculum for obtaining a qualification recognized by any law; Education as part of an approved vocational education course.</i></p> <p>The admission fee charged by the educational institutions as referred above</p>
		educational institutions.		<p>from its students is exempt from GST. However, the entrance fee charged for appearing in competitive entrance examinations for admission to educational institution is leviable to GST. This anomaly/ discrepancy exist as no specific exemption has been provided to the services provided for conducting the competitive entrance examinations for admission to these educational institutions.</p> <p>2. These educational institutions may either conduct the entrance examination themselves or may outsource it to some other agency which may be government or non-government. The educational institution, if a government department themselves and conducts entrance examinations themselves or through another government department or government entity, the services would be exempt under Sl. No. 6 of exemption notification No. 12/2017-CT(R). However, if they engage the service of a private entity, the GST would be payable. In case, the educational institution is an autonomous body, the entrance examinations conducted by the institution either themselves or through any other person would be taxable under GST.</p> <p>3. It may be noted that services relating to admission to, or conduct of examination by, educational institutions upto higher secondary level, are exempt from GST. The request is to extend this exemption to all educational institutions defined in para 1 above [definition 2 (y) of notification No 12/2017-CTR.]. We may extend this to all educational institutions.</p> <p>Fitment Decision: Agreed to exempt services relating to admission to, or conduct of examination provided to all educational institutions, as defined in the notification and to also exempt services by educational institution (as defined above) by way of conduct of entrance examination against consideration in the form of entrance fee.</p>

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

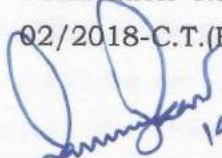
7.6 As per the definition of affiliation under regulation 2.1 above, affiliation in relation to a college is an activity to recognize such college to the privileges of the university to which the institution is affiliated. In other words, the activity of affiliation is to monitor whether the institution possess the required infrastructure in terms of Space, Technical prowess, financial liquidity, faculty strength, etc and thereby eligible for the privileges to conduct the course/programme of study for the degree/title extended by the University to the students enrolled in such institutions. In the case at hand, it is evident that the affiliation services provided by the applicant enables the said institution to conduct the course/programme and do not relate to admission of students to such course/programme in the said institutions or conduct of examination for such admission in the said institution. Also, the exempted services on the conduct of examination is that related to the admission to such institution and not related to the examination based on which degree/title, etc are conferred to the students, as is being claimed by the applicant, though we do not part any opinion on the claim of the applicant that they extend such services to the institutions by extending the affiliation. Therefore, we hold that the composite supply of sale of application, registration, inspection, etc with 'affiliation' of the said institution/course as the 'Principal supply' are not exempted under the entry Sl.No.66 of Notification No. 12/2017-C.T.(Rate) dated 28.06.2017 as amended.

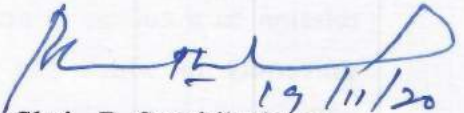
8. In view of the foregoing discussions, we rule as under

Ruling

The composite supply of sale of application, registration of course, inspection, etc with the 'Principal Supply' of "affiliation" provided by the Bharathiar University to its constituent colleges (viz) Self-financing and management colleges for which they collect 1. Application Form fees; 2. Application Fees (Application* Registration fee (each course/section)); 3. Inspection fees(each course/Section); 4. Affiliation Fee for each course; 5. Affiliation Fee for each

additional section; 6. Initial Affiliation fee to start an institution; 7. Permanent Affiliation fee to the College; 8. Continuation of affiliation for each course; 9. Increase in intake for each course for permanent basis processing fee & 10. Penal fee for receipt of late application is not exempted vide Sl.No. 66 of Notification No. 12/2017-C.T.(Rate) dated 28th June 2017 as amended by 02/2018-C.T.(Rate) dated 25.01.2018 for the reasons stated in para 7 above.


Shri Kurinji Selvaan . V.S.
(Member SGST)


Shri. B. Senthilvelavan
(Member CGST)



To

Bharathiar University, // By RPAD//
Marudhamalai Road,
Coimbatore, Tamilnadu-641046

Copy Submitted to:

1. The Principal Chief Commissioner of GST & Central Excise,
26/1, Mahatma Gandhi Road, Nungambakkam, Chennai-600034.
2. The Additional Chief Secretary/Commissioner of Commercial Taxes,
II Floor, Ezhilagam, Chepauk, Chennai-600 005.

Copy to:

3. The Principal Commissioner of GST & Central Excise, Coimbatore
Commissionerate, 6/7, A.T.D. Street, Race Course, Coimbatore 641 018.
4. The Assistant Commissioner (ST),
Velandipalayam Assessment Circle,
Ground Floor, chinthamani Complex
12/1, Krishnaswamy Road,
R S Puram, Coimbatore. 641 002.
5. Master File/ Spare-2