GSTAT

Court No. Court I

APL/10/DEL/2026

COUNCIL FOR THE INDIAN SCHOOL CERTIFICATE EXAMINATIONS ....**Appellant**

Versus

CGST DELHI EAST, COMMISSIONER, ITO & ORS. ....**Respondent**

Counsel for Appellant
LALITHA KRISHNAMURTHY

Counsel for Respondent

Hon'ble Sh. Sanjay Kumar Aggarwal, Member(Judicial)
Hon'ble Sh. Rajiv Kapoor, Member (Technical)

Form GST APL-04A

[See rules 113(1) & 115]

Summary of the order and demand after issue of order by the GST Appellate Tribunal

whether remand order : No

Order reference no. : ZA200070826000214H **Date of order :** 31/08/2026

1.	GSTIN/Temporary ID/UIN - 07AAATC1791Q1ZA	
2.	Appeal Case Reference no. - APL/10/DEL/2026	Date - 04/02/2026
3.	Name of the appellant - COUNCIL FOR THE INDIAN SCHOOL CERTIFICATE EXAMINATIONS , dsfin@cisce.org , 9831133606	
4.	Name of the respondant - 1. Pr Chief Commissioner Office , ccucgstdel- legal@gov.in , 9711166621 2. CGST Delhi East	
5.	Order appealed against - AD0707240076716	

	(5.1) Order Type - Demand Order
	(5.2) Ref Number - ZD0702250278585 | Date - 12/02/2025
6.	Personal Hearing - 31/08/2026 25/08/2026 24/08/2026 21/08/2026 18/08/2026 04/08/2026 27/07/2026 06/07/2026 26/05/2026 18/05/2026 06/05/2026
7.	Status of Order under Appeal - Modified – Order under Appeal is modified
8.	Summary in brief - (a) The invocation of section 74 of the Act 2017 for the extended period, July 2017 to August 2018, is set aside. Consequently, the demand for the period, July 2017 to August 2018 is set aside. (b) The demand for affiliation fees, affiliation form processing / form charges for the period 18.06.2021 to November 2023, as sustained in impugned order is upheld subject to order in sub -para (d) below. (c) The demand for registration charges and late charges for annual registration charges for the period September 2018 to November 2023 as sustained in impugned order for this period is upheld subject to order in next sub -para (d). (d) The amount collected by the appellant is to be treated as inclusive of tax. The benefit of Cum- tax value is allowed. (e) No penalty is leviable in respect to the period w.e.f July 2017 to August 2018. No penalty is leviable in respect of affiliation fees, affiliation form processing / form charges for the regularized period of July 2017 to June 2021. The penalty imposed under section 122(2)(a) of the Act 2017 in the impugned order is modified to the extent of penalty leviable on the tax demands as sustained herein above. The general penalty of ₹25,000 under section 125 of the Act 2017 is also upheld. (f) Interest under section 50 of the Act 2017 is payable on the sums confirmed from the respective dates of default as discussed here in above, calculated in accordance with the provisions of the Act 2017. (g) The tax liability along with consequential interest and penalty shall be recomputed by the respondent after complying with the findings of this bench as enumerated here -in -above. No orders as to cost.

Summary of Order

9.	If demand order then whether demand quantified: No

10.	For Other orders and Demand orders which are not quantified:	
Issues as raised by proper officer	Issues as determined by Appellate/Revisional authority	Order by GST Appellate Tribunal
Short or non-payment of tax	104172120	same as item no 8

Place :DELHI

Signature

Date : 31.08.2026

DELHI Sanjay Kumar Aggarwal

Designation : Member

Jurisdiction :Delhi

ARGUMENTA PARTIUM BY :

Sh. M.P.Rastogi , Ld. Counsel on behalf of appellant.

Sh. Davashya Jyoti Jyotirmoy, Ld. Joint Commissioner on behalf of the respondent.

FINAL ORDER.

1. Being aggrieved with the Order-in-Appeal No. 01/commr./central tax/Appeal-I/Delhi/2025 dated 09.01.2025 {ZD0702250278585, dated12/02/2025} (hereinafter referred to as the 'impugned

order') passed by the Commissioner, CGST (Appeals), Appeal-I ,Delhi (hereinafter referred to as the 'first appellate authority'), which partly modified the Order-in-Original No. DE/NP/R-169/GST/ADC(JR)/012/2024-25 dated 30.04.2024 (hereinafter referred to as the 'OIO dated 30.04.2024') passed by the Additional Commissioner of Central Goods and Services Tax, Delhi East Commissionerate (hereinafter referred to as the 'Adjudicating Authority') ,this appeal has been preferred by M/s Council for the Indian School Certificate Examinations (hereinafter referred to as 'the appellant') , having its registered office at Pragati House, Nehru Place, New Delhi, under Section 112 of the Central Goods and Services Tax Act, 2017 (hereinafter called the 'Act 2017').

2. The factual matrix giving rise to the present proceedings indicates that the appellant is engaged in the field of education and undertakes activities such as granting affiliation to schools up to the senior secondary level, conducting public examinations (ICSE and ISC), registering students, and organizing academic programs and projects, classified under Services Accounting Code 9992. It is registered under Section 12A of the income tax Act, 1961 as a charitable organization and is recognized under the Delhi Education Act, 1973. The appellant claims to operate without government funding and exists solely for educational purposes. The appellant had registered with GST Department on 12/09/2018.

3. The anti-evasion branch of CGST Delhi East Commissionerate office got the specific intelligence input that the appellant had not discharged Goods and Services Tax on various fees collected from affiliated schools and institutions and commenced an inquiry. In furtherance there to an inspection under Section 67(1) of the Act 2017 which was carried out on 05.12.2023 at the principal place of business of the appellant. During such inspection, it was observed that financial and accounting operations were being conducted from an additional place of business at Pushp Vihar, New Delhi.

4. Mr. Arijit Basu, Dy. Secretary (finance) with the appellant when contacted, furnished preliminary financial details and acknowledged that GST liability had not been discharged on certain streams of income, particularly affiliation-related receipts. However, he subsequently appeared in response to summons issued under Section 70 of the Act 2017 on 11.12.2023 before the competent authority, where his statement was recorded.

5. Mr. Arijit Basu explained in his statement that the appellant is a society registered under the Society Registration Act 1860 and is a non-profit educational body established in 1958, registered under Section 12A of the income tax act, and recognized under the Delhi Education Act, 1973. He stated that GST was being discharged on certain activities such as training programs and sale of scrap, but not on core receipts like affiliation fees, registration

charges, documentation charges, and similar items, which were treated as exempt under Entry No.66 of Notification No.12/2017-CT(Rate) dated 28.06.2017 (hereinafter called the 'Exemption Notification dated 28.06.2017').

6. The total GST liability based on the financial data furnished by the appellant CISCE vide their email dated 15/12/2023 for the period July 2017 to November 2023 was computed as tabulated here in under:

Table A: Total CONSOLIDATED GST Liability (July 2017 – Nov. 2023)

S.No.	Head of Income	Taxable Value (₹)	GST Paid (₹)	GST 18% (₹)
1.	Affiliation Form Processing Charges	73,60,000	Nil	13,24,800
2.	Affiliation Fee	24,85,75,000	Nil	4,47,43,500
3.	Annual Registration Charges	46,29,70,000	Nil	8,33,34,600
4.	Late Charges (Annual Reg.)	39,34,000	Nil	7,08,120
5.	Licence Fee (Syllabus & Q. Papers)	99,61,000	Nil	17,92,980
6.	Documentation Charges	41,02,05,101	Nil	7,38,36,918
7.	Late Entry Fee	1,83,90,950	Nil	33,10,371
	TOTAL	—	**Nil**	**20,90,51,289**

7. The investigating authority alleged suppression of facts and intent to evade tax; demand was proposed under Section 74(1) of the Act, 2017 for the period July 2017 to August 2018, as tabulated below:

Table B: GST Liability Under Section 74 of the Act, 2017 (July 2017 – August 2018)

S.No.	Head	Taxable Value (₹)	GST @18% (₹)
1.	Processing Charges	14,20,000	2,55,600
2.	Affiliation Fee	3,55,50,000	63,99,000
3.	Annual Registration Charges	7,09,90,000	1,27,78,200
4.	Late Charges	10,14,000	1,82,520
5.	Licence Fee (Syllabus/Q.Papers)	99,61,000	17,92,980
6.	Documentation Charges	6,32,19,500	1,13,79,510
7.	Late Entry Fee	44,76,950	8,05,851
	TOTAL	**18,65,31,450**	**3,35,93,661**

8. For the subsequent period September 2018 to November 2023, demand was proposed under Section 73(1) of the Act, 2017 as tabulated below:

Table C: GST Liability Under Section 73 of the Act, 2017 (September 2018 – November 2023)

S.No.	Head	Taxable Value (₹)	GST @18% (₹)
1.	Processing Charges	59,40,000	10,69,200
2.	Affiliation Fee	21,30,25,000	3,83,44,500
3.	Annual Registration Charges	39,19,80,000	7,05,56,400
4.	Late Charges (Annual Reg.)	29,20,000	5,25,600
5.	Documentation Charges	34,69,85,601	6,24,57,408
6.	Late Entry Fee	1,39,14,000	25,04,520
	TOTAL	**97,47,64,601**	**17,54,57,628**

9. Show Cause Notice No. 23/2023-24 dated 18.01.2024 (hereinafter called the 'SCN dated 18.01.2024') was issued under Sections 73 and 74 of the Act 2017 proposing inter alia:

(i) the demand of ₹3,35,93,661/- for July 2017 to August 2018 under Section 74(1) of the Act 2017 invoking extended period on account of alleged suppression of facts.

(ii) the demand of ₹17,54,57,628/- for September 2018 to November 2023 under Section 73(1) of the Act 2017.

(iii) the interest under Section 50(1) of the Act 2017 on both demands.

(iv) Penalty under Section 122(1)(i), 122(1)(xi), 122(2)(a), 122(2)(b), 122(3)(e) and Section 125 of the Act 2017.

10. The adjudicating authority vide OIO dated 29.04.2024 adjudicated the SCN dated 18.01.2024, the details of which are delineated below.

11. The adjudicating after detailed analysis of the factual matrix held that affiliation services rendered by CISCE is neither of the;

(a) Services provided by an educational institution to its students, faculty and staff, as admittedly, there are no students, faculty or staff of CISCE which are recipient of "its" services in the present case (Entry no. 66(a) of the Exemption Notification 12/2017-CT(R) dated 28th June 2017 refers);

(b) Services provided by an educational institution by way of conduct of entrance examinations against consideration in the form of entrance fee, as the services of CISCE is, simpliciter, provision of affiliation to schools imparting education. The CISCE is not engaged in "conduct" of entrance examination for a consideration; the affiliation provided by CISCE relates to defining and accrediting the functionality of the school, which is much broader in scope compared to "conduct of an entrance examination" (Entry no. 66(aa) of the Exemption Notification 12/2017-CT(R) dated 28th June 2017 refers);

(c) Services provided to an educational institution relating to admission to, or conduct of examination by, such institution, as it is apparent that the affiliation or registration services are not related to mere admission or conduct of examination by an educational institution or school. The adjudicating authority further held that The affiliation extends the capacity to the school to function and impart education to the students in terms of relevant statutes/s ; the exemption entry claimed to be applicable by the Noticee in the instant case is restricted to services provided in relation to "admission" and "conduct of examination" and does not extend to all services pertaining to imparting education by such educational institution ; the scope and ambit of service rendered by CISCE is different from the ambit of services which the exemption entry purports and intends to exempt (Entry no. 66(b)(iv) of the Exemption Notification 12/2017-CT(R) dated 28th June 2017 refers).

12. The adjudicating authority inferred that the "Affiliation Fee" levied by appellant on affiliated schools does not constitute a service of education nor is it directly provided by an educational institution to its students, faculty, or staff. Rather, this service is extended to schools to ensure adherence to established standards in terms of course offerings and facilities, thus maintaining a certain level of quality.'

13. The adjudicating authority further held that the non-payment had remained concealed from the department and had

come to light only upon investigation, warranting a finding of suppression of facts with intent to evade tax within the meaning of Section 74(1) of the Act 2017. Accordingly, the extended period of limitation was invoked for the period July 2017 to August 2018. In its final directions, the adjudicating authority confirmed:

(a) demand of ₹3,35,93,661/- for the period July 2017 to August 2018 under section 74(1) of the Act 2017, with a corresponding penalty of an equivalent amount under Section 122(2)(b) r. w. section 74 of the Act 2017;

(b) demand of ₹17,54,57,628/- for the period September 2018 to November 2023 under Section 73(1), with penalty of ₹1,75,45,763/- under section 122(2)(a) read with Section 73 of the Act 2017;

(c) interest under section 50(1) of the Act 2017 on both demands from the respective dates of default; and

(d) a general penalty of ₹25,000/- under section 125 of the Act 2017 for failure to properly self-assess tax liability. The entire demand as consolidated in Table D above was thus confirmed by the adjudicating authority.

14. Aggrieved with the OIO dated 30.04.2024, the appellant preferred an appeal before the first appellate authority. The first appellate authority vide the impugned order dated 09.01.2025

after detailed examination of the nature of services provided by the appellant and their eligibility for exemption under Exemption Notification dated 28.06.2017, partly modified the OIO dated 30.04.2024.

15. The issue central to the controversy revolved around was whether various fees collected from affiliated schools in the category of affiliation fees, annual registration charges, processing fees, documentation charges, licence fees, and late fees were qualified as exempt services under Exemption Notification dated 28.06.2017 in the entry no 66(b)iv relating to the conduct of examinations, or whether they constituted independent taxable supplies.

16. The first appellate authority vide impugned order observed that the process of affiliation serves to evaluate whether a school possesses the necessary infrastructure, financial stability, and other prerequisites to qualify for the privilege of delivering the curriculum endorsed by the appellant to enrolled students ; therefore, it can be inferred that the "Affiliation Fee" levied by CISCE on affiliated schools does not constitute a service of education nor is it directly provided by an educational institution to its students, faculty, or staff ; Rather, this service is extended to schools to ensure adherence to established standards in terms of course offerings and facilities, thus maintaining a certain level of quality.

17. In para 5.3.3 of the order passed by appellate authority, it is mentioned that;

> *Vide Circular No. 151/07/2021-GST dated 17th June 2021 it has been clarified that*
>
> *(i) GST is exempt on services provided by Central or State Boards (including the boards such as NBE) by way of conduct of examination for the students, including conduct of entrance examination for admission to educational institution [under S. No. 66 (aa) of notification No. 12/2017-CT(R)]. Therefore, GST shall not apply to any fee or amount charged by such Boards for conduct of such examinations including entrance examinations.*
>
> *(ii) GST is also exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc., when provided to such Boards [under S. No. 66 (b) (iv) of notif No. 12/2017-CT(R)].*
>
> *(iii) GST at the rate of 18% applies to other services provided by such Boards, namely providing accreditation to an institution or to a professional (accreditation fee or registration fee such as fee for FMGE screening test) so as to authorize them to provide their respective services.*

Accordingly, the appellate authority held that the above Circular explained that affiliation services are taxable.

18. The first appellate authority further relied upon CBIC Circular No. 234/28/2024-GST dated 11.10.2024 (hereinafter

referred to as the ' Circular No. 234/28/2024 dated 11.10.2024 ')issued pursuant to the recommendations of the GST Council in its 54th meeting held on 09.09.2024, which clarifies that services of affiliation provided to schools by Central or State educational boards or councils, or other similar bodies, are not by way of services relating to admission of students or the conduct of examinations, and are accordingly taxable. The first appellate authority noted that the said Circular exempts affiliation services only when provided to government schools, that is, schools established, owned, or controlled by the Central Government, State Government, Union Territory, local authority, Governmental authority, or Government entity, with effect from 10.10.2024.

19. The first appellate authority noted that, in its 54th meeting, the GST Council had further recommended regularizing the GST liability on affiliation services provided to all schools, by whatever name called, for the period from 01.07.2017 to 17.06.2021, that is, the date of issuance of Circular No. 151/07/2021-GST clarifying that accreditation services of boards are taxable at 18%, on an **'as is where is' basis**. The first appellate authority accordingly in terms of this circular held that, in cases of two competing rates or where one of the competing rates was Nil, payment at the lower rate for the said period would be treated as tax fully paid and regularized for that period.

20. Applying the above to the facts of the case, the first appellate authority found that the appellant was under a bona fide belief that its affiliation services were exempt under Entry 66 of the Exemption Notification dated 28.06.2017 and had accordingly neither collected nor paid GST thereon. Based on Circular No. 234/28/2024 dated 11.10.2024, the first appellate authority set aside the demand of GST on affiliation fee and affiliation form processing charges on an 'as is where is' basis for the period 01.07.2017 to 17.06.2021, and set aside the corresponding demand of ₹2,59,38,900/-. However, this relief was confined strictly to the said period, and the taxability of affiliation fee and affiliation form processing charges for the subsequent period from 18.06.2021 to November 2023 was confirmed by the first appellate authority.

21. On the aspect of annual registration charges and late charges associated with such registration, the first appellate authority chose to adopt stricter interpretation. Relying upon circular no 151/07/2021dated 17th June 2021, the first appellate authority concluded that such services do not qualify as being directly related to the conduct of examinations. Accordingly, GST demand on annual registration charges and late registration fees was upheld by the first appellate authority for the entire period July 2017 to November 2023.

22. A different view altogether was taken with respect to documentation charges. These included fees for correction of

records, issuance of duplicate mark sheets, migration certificates, and verification of documents. The first appellate authority held that these services arise directly from the examination process and are inseparable from academic evaluation. Relying on relevant circulars, the first appellate authority came to conclusion that documentation charges are exempt as services relating to the conduct of examinations, and the entire demand on this account was set aside for both periods.

23. As regards late entry fees collected from students for delayed payment of examination fees, the first appellate authority held these to be directly connected with examination participation. It was observed that such fees have no independent existence outside the examination framework and are essentially an extension of examination fees. They were accordingly treated as exempt and the corresponding demand was set aside for both periods.

24. With reference to licence fees received for granting rights to publish syllabus and past question papers, the first appellate authority examined the applicable provisions relating to copyright services. It concluded that such transactions fall under the reverse charge mechanism, wherein the liability to pay GST rests on the recipient of the service (i.e., the publisher) and not on the appellant as the supplier. Consequently, the appellant was not liable to discharge GST on these amounts, and the demand was set aside.

25. The first appellate authority rejected the appellant's claim for treating the consideration received as inclusive of GST (cum-tax benefit under Rule 35 of the CGST Rules, 2017 {hereinafter called the Rules 2017}) on the grounds that no documentary evidence was furnished to substantiate such a claim. It was emphasized that the cum-tax benefit under Rule 35 of the Rules 2017 is not automatic and must be established with proper accounting records.

26. The first appellate authority upheld the invocation of the extended period under Section 74 of the Act 2017 for the period July 2017 to August 2018 and held that in the present era of self-assessment, as provided under Section 59 of the Act 2017, huge responsibility has been entrusted on the taxpayer to correctly assess and discharge their correct tax-liability ; the taxpayer did not self-assess their statutory tax-liability in terms of Section 59 of the Act 2017 ,moreover they did not disclose their outward supply / tax payment etc. in any of their due GST returns ; It was only after initiation of investigation, the fact of non-payment of GST on taxable supply of affiliation and other related activities of the tax-payer came in the knowledge of department ;this act of omission and commission on the part of appellant falls under the ambit of willful suppression of material information from the knowledge of department to evade the payment of GST.

27. Hence, first appellate authority held that the demand of GST by invoking extended period of limitation as provided under

Section 74(1) of CGST Act 2017 by the Adjudicating Authority is just and fair and that the imposition of penalty under section 73(1) and 74(1) of the CGST Act, 2017 is also appropriate. In the result, the first appellate authority partly allowed the appeal filed by the appellant against the OIO dated 30.04.2024. Substantial relief was granted in respect of documentation charges, licence fees, late entry fees, migration charges and affiliation-related charges for the period July 2017 to June 2021, while the demand in respect of annual registration charges, late registration charges (for the full period 2017-23), and affiliation fee and affiliation processing charges for the post-June 2021 period 18.06.2021 to November 2023 was sustained.

28. The head-wise position as emerging from the impugned order is detailed in the tables below:

Table D: GST liability for the period July 2017 to August 2018

Head	Demand confirmed by the AA vide the impugned order.	GST set aside.	Total GST payable
Amount Received for affiliation form processing charges	2,55,600	2,55,600	0
Affiliation Fee	63,99,000	63,99,000	0
Annual Registration Charges	1,27,78,200	0	1,27,78,200

Head	Demand confirmed by the AA vide the impugned order.	GST set aside.	Total GST payable
Late Charges for Annual Registration charges	1,82,520	0	1,82,520
received for granting rights of sole license for sale of Syllabuses and past question papers	17,92,980	17,92,980	0
Documentation Charges	1,13,79,510	1,13,79,510	0
Late Entry fee	8,05,851	8,05,851	0
Total	**3,35,93,661**	**2,06,32,941**	**1,29,60,720**

Table E: GST liability for the period September 2018 to November 2023

Head	Demand confirmed by the AA vide the impugned order	GST set aside	Total GST payable
Amount Received for affiliation form processing charges	10,69,200	5,41,800	5,27,400

Head	Demand confirmed by the AA vide the impugned order	GST set aside	Total GST payable
Affiliation Fee	3,83,44,500	1,87,42,500	1,96,02,000
Annual Registration Charges	7,05,56,400	0	7,05,56,400
Late Charges for Annual Registration charges	5,25,600	0	5,25,600
Amount received for granting rights of sole license for sale of syllabuses and past question papers	0	0	0
Documentation Charges	6,24,57,408	6,24,57,408	0
Late Entry fee	25,04,520	25,04,520	0
Total	**17,54,57,628**	**8,42,46,228**	**9,12,11,400**

29. The appellant has assailed the impugned order on the following consolidated grounds:

(a) The issuance of SCN dated 18.01.2024 for a consolidated period of July 2017 to November 2023, covering various limitations and the order passed in furtherance thereto for a consolidated period is not accordance with the law and consequently the demand created under 73 r/w section 74 of the act 2017 is arbitrary and bad in law ; that assessment involves a definite tax period based on the due date of filing of the return ; if the assessment is based on the due date of annual return the tax period shall be the relevant financial year; that different tax periods cannot be covered in a single show cause notice.

(b) In the absence of any trade or commerce, the levy of GST on affiliation, registration and other educationally linked receipts is arbitrary and bad in law. Educational activities of the appellant cannot be treated as 'business' under Section 2(17) of the Act 2017 or 'supply' under Section 7 of the Act 2017 thereof.

(c) Affiliation is not an independent commercial activity but an intrinsic and indispensable part of the examination system. Schools without CISCE affiliation cannot present students for ICSE/ISC examinations. Affiliation constitutes the first and foundational stage of the examination process and is covered under 'services relating to admission to or conduct of examination' under Entry 66(b)(iv) of notification dated 28.06.2017.

(d) Annual registration charges and late registration charges are in the nature of continuation of affiliation. Non-payment results in de-affiliation. Such charges are directly connected with the examination framework and ought to have been granted exemption under Entry 66 of notification dated 28.06.2017.

(e) The CBIC Circular No. 234/28/2024 dated 11.10.2024, to the extent it denies exemption to affiliation services, are ultra vires the Act

2017 and the Exemption Notification. Affiliation is fundamentally distinct from accreditation. Further, Circular No. 234/28/2024 dated 11.10.2024 has been quashed by the Hon'ble Karnataka High Court and Hon'ble Bombay High Court and is therefore not a valid or binding instrument. Additionally, Section 168 of the Act 2017 does not confer upon the CBIC the power to interpret statutory provisions and that power belongs exclusively to the Courts as held by the Hon'ble Supreme Court in Keshavji Ravji & Co. v. Commissioner of Income Tax [(1990) 183 ITR 1 (SC)], the Circular is to that extent ultra vires. Circulars issued under Section 168 of the Act 2017 cannot override statutory exemptions or interpret statutory provisions contrary to the plain language of the law.

(f) The amounts collected by the appellant, if taxable at all, should be treated as inclusive of GST under Rule 35 of the Rules 2017. The first appellate authority erred in rejecting this claim without adequate examination.

(g) The appellant entertained a bona fide belief that its activities were exempt. The issue is purely interpretational. There is no suppression of facts, willful misstatement, or intent to evade tax, all of which are prerequisites for invoking Section 74 of the Act 2017. The entire demand for July 2017 to August 2018 under Section 74 of the Act 2017 is accordingly unsustainable. Further and more specifically:

(i) the jurisdictional office had itself called for details of the appellant's charges vide letter dated 01.03.2023 and the appellant duly furnished details vide its letters dated 15.03.2023 and 27.03.2023, after which the Department raised a demand letter dated 08.05.2023 , all of this months before the inspection on 05.12.2023 demonstrating that the Revenue had full actual knowledge of the appellant's receipts and activities well before any investigation, thereby negating any allegation of suppression of facts; and

(ii) CBIC Instruction No. 5/2023-GST dated 13.12.2023 itself clarifies that Section 74(1) of the Act 2017 cannot be invoked merely on account of non-payment without specific material evidence of fraud or willful misstatement or suppression of facts to evade tax, and no such evidence exists in the present case.

(h) Where the foundation for Section 74 of the Act 2017 fails, penalties under Section 122(2)(b) of the Act 2017and interest under Section 50 of the Act 2017 for that period cannot survive. The dispute being interpretational in nature, imposition of penalties is unwarranted in any event.

30. The respondent filed a para-wise reply/comments to the appeal filed by the appellant. The submissions of the respondent Department, being germane to the issues arising for consideration, are mentioned below.

a) that the contention of the taxpayer is not acceptable. The Show Cause Notice dated 19.01.2024 has been issued in accordance with the provisions of the CGST Act, 2017. The fact that the notice covers multiple tax periods does not, by itself, render the proceedings without jurisdiction or invalid. The notice clearly identifies the period-wise tax liability and separately invokes the applicable provisions of Section 74 for the period involving alleged suppression/fraud and Section 73 for the remaining period, in accordance with the statutory provisions.

b) that the CGST Act, 2017 does not contain any express prohibition against issuance of a common Show Cause Notice covering multiple financial years where the issues involved are common, arise from the same investigation/audit, and the statutory limitation prescribed under Sections 73 and 74 has been adhered to for the respective tax periods. The validity of a notice is to be examined with reference to compliance with the limitation applicable to each tax period and not merely on the ground that multiple financial years have been clubbed together.

Accordingly, the respondent pleaded that the plea that the Show Cause Notice dated 19.01.2024 and the consequential adjudication order are without jurisdiction or liable to be set aside solely on the ground that they cover multiple financial years is devoid of merit and is liable to be rejected.

c) that the contention of the appellant is not acceptable and is liable to be rejected. The appellant has contended that their activities are not under the ambit of "business" as per Section 2(17) of the CGST Act, 2017 and thus they are beyond the scope of "Supply" as per Section 7 of the CGST Act, 2017 and GST cannot be levied upon them under Section 9 of the CGST Act, 2017.

For the sake of reference, the definition of "business" as per Section 2(17) of the CGST Act, 2017, was reproduced, including clause (e) thereof, which includes within its ambit the 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.

d) that it may be noted that the appellant is a society registered under the Societies Registration Act No. XXI of 1860 having Registration No. S-3542 dated 19th December 1967. Further, affiliation fee, annual registration fee, late fee and other charges have been collected by the appellant as consideration for providing identifiable services such as grant and continuation of affiliation, monitoring compliance with prescribed standards, and other administrative functions. Thus, their activities are squarely covered under Section 7 of the CGST Act, 2017 and GST shall be levied upon them in accordance with Section 9 of the CGST Act, 2017.

e) that the recognition of the appellant as an educational institution under the Income-tax Act or under the Delhi School Education Act is not determinative of its liability under the CGST Act. The provisions of the CGST Act constitute a self-contained code, and taxability is in accordance with the definitions and charging provisions contained therein.

CBIC Circular No. 151/07/2021-GST dated 17.06.2021 merely clarifies the scope of exemption available to educational institutions and educational boards. It does not provide a blanket exemption from GST on all receipts collected by such institutions. The taxability of each activity is determined with reference to the relevant exemption notification and the nature of the supply.

Accordingly, the respondent agitated in the reply that the affiliation fees, annual registration fees, late fees and other charges collected by the appellant constitute consideration for taxable supplies under the CGST Act, unless specifically covered by any exemption notification and that the appellant has not established that the impugned receipts are wholly exempt from GST. Hence, the demand confirmed by the Adjudicating Authority has been rightly sustained and the grounds raised by the appellant deserve to be rejected.

f) that the contention of the appellant that the affiliation fee is exempt under Entry 66 of Notification No. 12/2017-CT (Rate) dated 28.06.2017 is not acceptable and is liable to be rejected. The exemption under Entry 66(b)(iv) is applicable only to services relating to admission to, or conduct of examination by, an educational institution. The affiliation granted by the appellant is an independent statutory and administrative function whereby schools are assessed for compliance with prescribed norms, infrastructure, faculty, governance and other eligibility conditions before being granted recognition to use the appellant's curriculum. Such services are rendered to the affiliated schools for consideration and cannot be equated with the actual process of admission of students or conduct of examinations.

g) that the expression “services relating to admission to or conduct of examination” cannot be interpreted so broadly as to include every activity remotely connected with education. Affiliation is merely a pre-condition for recognition of a school and is a distinct activity undertaken prior to admission and examination. The consideration received towards affiliation is, therefore, for a separate supply of service and does not automatically qualify for exemption under Entry 66 merely because the affiliated schools subsequently admit students or present them for examination.

h) that it is also pertinent to note that CBIC Circular No. 151/07/2021-GST recognizes educational boards as educational institutions only for the limited purpose of determining the applicability of exemption notifications. The Circular does not provide that every receipt collected by such institutions, including affiliation fees, is exempt from GST.

Accordingly, as per the respondent in the written reply, the affiliation fee, annual affiliation charges, registration charges and other related receipts are consideration received for independent services supplied by the appellant to affiliated schools in the course or furtherance of business as defined under Section 2(17) of the CGST Act and are taxable under Section 9 of the Act. The demand confirmed by the Adjudicating Authority has therefore been rightly upheld, and the ground raised by the appellant deserves to be rejected.

i) that the contention of the appellant is not acceptable and deserves to be rejected. The Commissioner (Appeals) has rightly relied upon Circular No. 234/28/2024-GST dated 11.10.2024 while deciding the appeal. The said circular was issued by the CBIC in exercise of the powers conferred under Section 168 of the CGST Act, 2017 to ensure uniformity in the implementation of the Act. Such circulars are binding on the departmental officers so long as they remain in force.

j) that the appellant's contention that the Circular has been quashed by the Hon'ble Karnataka High Court and the Hon'ble Bombay High Court does not render it inapplicable in the present case. The judgments relied upon by the appellant operate within their respective territorial jurisdictions and do not constitute binding precedents upon authorities functioning outside those jurisdictions. Further, there is no authoritative pronouncement of the Hon'ble Supreme Court declaring the circular to be invalid or laying down the law on the issue. Therefore, the Commissioner

(Appeals) was justified in following the clarification issued by the Board.

k) that Circular No. 234/28/2024-GST does not create a new levy, nor does it amend the provisions of the CGST Act or Notification No. 12/2017-CT (Rate). It merely clarifies the Department's understanding regarding the scope of affiliation services vis-à-vis the exemption under Entry 66 of the Notification. The clarification is consistent with the statutory provisions and distinguishes affiliation services from services relating to admission or conduct of examinations.

l) that the appellant's attempt to distinguish “affiliation” from “accreditation” is also misplaced. Irrespective of the terminology employed, the substance of the activity undertaken by the appellant involves scrutiny of infrastructure, faculty, governance, academic standards and compliance with prescribed norms before granting recognition to schools. Such activities constitute an independent supply of services to affiliated schools for consideration and cannot be equated with services relating to admission of students or conduct of examinations.

m) that the reliance placed upon the decisions in Keshavji Ravji & Co., Hero Cycles, Paper Mills and Ratan Melting & Wire Industries is misconceived. There is no dispute regarding the settled proposition that circulars cannot override statutory provisions or judicial pronouncements.

The appellant took the plea in the reply that in the absence of any binding judgment of the Hon'ble Supreme Court or the jurisdictional High Court directly governing the present case, the Commissioner (Appeals) was justified in taking note of the Board Circular while interpreting the exemption notification and has correctly upheld the levy of GST on affiliation charges for the period from 18.06.2021 to November 2023. The findings are legal, proper and in conformity with the provisions of the CGST Act and the applicable exemption notification. The ground raised by the appellant is therefore devoid of merit and liable to be rejected.

n) that the contention of the appellant is not acceptable and is liable to be rejected. The annual registration charges and late charges for annual registration are independent consideration received by the appellant for continuation of affiliation and maintenance of the affiliation status of the schools. These charges are collected in consideration of the continued monitoring, regulatory oversight, administrative processing and renewal of affiliation granted by the appellant. Such services are distinct from services relating to admission of students or conduct of examinations.

o) that the exemption under Entry 66 of Notification No. 12/2017-CT (Rate) dated 28.06.2017 is a specific exemption applicable only to the services expressly covered therein. Annual registration charges and late payment charges do not fall within the ambit of "services relating to admission to, or conduct of examination by, an educational institution." Therefore, the appellant is not entitled to claim exemption merely on the ground that such charges are connected with the continuation of affiliation.

p) that the appellant's argument that annual registration charges are identical to affiliation fees is misconceived. Even assuming that such charges are incidental to affiliation, the taxability of affiliation-related services has already been examined separately, and the Commissioner (Appeals) has rightly upheld the levy of GST for the period from 18.06.2021 onwards in accordance with the applicable statutory provisions and the clarification issued by the CBIC. Consequently, annual registration charges and late registration charges, being ancillary to the affiliation process, are equally liable to GST for the said period.

q) that late registration charges are recovered on account of delayed compliance with the prescribed timelines and constitute additional consideration in respect of the principal supply of continuation of affiliation. In terms of Section 15(2)(d) of the CGST Act, any interest, late fee or penalty for delayed payment of consideration forms part of the value of the supply and is liable to GST at the same rate as the principal supply.

r) that the appellant has failed to establish any specific exemption under the CGST Act or Notification No. 12/2017-CT (Rate) covering annual registration charges or late registration charges. Exemption notifications are required to be construed strictly, and no exemption can be extended by implication.

Accordingly, as per the reply filed by the respondent, the Commissioner (Appeals) has rightly upheld the levy of GST on annual registration charges and late charges for annual registration for the period from 18.06.2021 to November 2023. The findings of the Commissioner (Appeals) are legal, proper and in accordance with the provisions of the CGST Act, 2017. Hence, the ground raised by the appellant deserves to be rejected.

s) that the contention of the appellant is not acceptable and deserves to be rejected. Rule 35 of the CGST Rules, 2017 provides for determination of the value of taxable supply only where it is established that the value charged is inclusive of GST. The burden to establish that the consideration received was inclusive of tax squarely lies upon the supplier claiming the benefit of Rule 35. In the present case, as per respondent the appellant has failed to produce any documentary evidence such as invoices, agreements, fee notifications, accounting records, correspondence with affiliated schools, or any other contemporaneous documents demonstrating that the consideration collected from the schools was inclusive of GST. Mere absence of a separate mention of GST in the invoices cannot, by itself, lead to the presumption that the consideration was inclusive of tax.

Hence, the respondent claimed in the reply that the ground raised by the appellant is devoid of merit and deserves to be rejected.

t) that the contention of the appellant challenging the invocation of the extended period under Section 74 of the CGST Act, 2017 is not acceptable and deserves to be rejected. The records reveal that the appellant neither discharged GST on the taxable supplies nor disclosed the impugned outward supplies as taxable in the statutory GST returns. The non-payment of tax continued over a prolonged period despite the appellant being a registered person under the CGST Act and being under a statutory obligation to correctly determine and discharge its tax liability under the self-assessment mechanism prescribed under Section 59 of the Act.

u) that the taxable nature of the services came to the notice of the Department only upon investigation/inspection conducted by the departmental officers. Had the investigation not been initiated, the non-payment of GST would have remained undetected. Thus, the material facts necessary for assessment were not voluntarily disclosed by the appellant, justifying invocation of the provisions of Section 74 of the CGST Act.

v) that the plea of bona fide belief is not substantiated by any contemporaneous evidence. Mere reliance on legal opinions or subsequent judicial pronouncements cannot automatically establish bona fide belief so as to exclude the applicability of Section 74. Throughout the relevant period, the appellant neither sought any advance ruling nor approached the Department for clarification regarding the taxability of the impugned receipts. Instead, it unilaterally treated the receipts as non-taxable without discharging GST.

w) that the contention that proceedings under the erstwhile Service Tax regime were pending on similar issues does not absolve the appellant from its independent statutory obligations under the CGST Act. The GST is a separate and self-contained legislation, and every registered person is required to determine and discharge tax liability in accordance with its provisions. The existence of disputes under the previous indirect tax regime cannot be construed as a licence to refrain from payment of GST under the new statutory framework.

x) that the appellant's contention that all information was available in its books of accounts or website is also not tenable. Mere maintenance of books of accounts or publication of information on a website does not amount to disclosure to the tax authorities for the purposes of the CGST Act. The statutory requirement is to correctly disclose taxable supplies in the prescribed GST returns and discharge the applicable tax. Failure to do so cannot be cured by the existence of information in records not furnished as part of statutory compliance.

y) that the ingredients for invoking Section 74 have been specifically recorded by the Adjudicating Authority as well as the Commissioner (Appeals), who have categorically held that the appellant failed to disclose the correct tax liability and suppressed material facts resulting in non-payment of GST. These are findings of fact based on the records and have not been rebutted by any cogent evidence.

Accordingly, as per the respondent the invocation of the extended period under Section 74 of the CGST Act, 2017, along with the consequential demand of tax, interest and penalty, is legal, valid and in accordance with the provisions of the Act. Therefore, the ground raised by the appellant is devoid of merit and deserves to be rejected.

31. Upon consideration of the stand taken by the rival parties in their respective pleadings, the following issues were framed.

ISSUES FOR DETERMINATION;

Issue no I: Whether the issuance of SCN for a consolidated period of July 2017 to November 2023, covering various limitations and the order passed in furtherance thereto for a consolidated period is in accordance with the law or not; whether assessment involves a definite tax period based on the due date of filing of the return; whether different tax periods can be covered in a single show cause notice?

Issue no II: Whether the activities of the appellant constitute 'supply' under Section 7 read with Section 9 of the Act 2017?

Issue no III: Whether affiliation (including affiliation processing/form charges) is an independent taxable supply or forms an integral part of 'services relating to admission to, or conduct of examination' under the Exemption Notification dated 28.06.2017, and is thereby exempt?

Issue no IV: Whether annual registration charges and late registration charges are independent taxable supplies or are intrinsically connected with affiliation/examination functions and are eligible for exemption under the said Notification?

Issue no V: Whether Circular No. 234/28/2024 dated 11.10.2024 is a valid and binding instrument regard being had to the appellant's contentions that the said Circular has been quashed by certain Hon'ble High Courts or that Section 168 of the Act, 2017 does not confer upon the CBIC the power to interpret statutory provisions, and the Circular is to that extent ultra vires or that the Circular erroneously equates affiliation with accreditation and is for that reason inapplicable to CISCE; and whether, in any event, the demand on affiliation charges for the period 18.06.2021 to November 2023 is legally sustainable?

Issue no VI: Whether the amounts collected by the appellant, if taxable, are to be treated as inclusive of GST under Rule 35 of the Rules 2017?

Issue no VII: Whether the conditions precedent for invoking Section 74 of the Act 2017 namely fraud, willful misstatement, or suppression of facts with intent to evade tax are satisfied in the present case; and whether CBIC Instruction No. 5/2023-GST dated 13.12.2023, which stipulates that Section 74(1) cannot be invoked merely on non-payment without positive material evidence of fraud or wilful misstatement or suppression of facts to evade tax, has been complied with in the present case?

Issue no VIII: Whether levy of interest under Section 50 and penalties under Section 122 of the Act 2017 are sustainable?

32. During hearing of the matter on the various issues involved, Ld. Counsel for the Appellant made submissions as detailed below:

(a) The Appellant/Society has been established not for the purpose of profit, but for educative purposes, namely, to conduct examinations for the 10th and 12th standard under the aegis of the ICSE Board. In order to fulfill this object, examination centers are required to be arranged, for which purpose schools seeking affiliation apply to be affiliated for the purpose of examinations, against payment of affiliation fee and annual charges. The question now arises, it was agitated, is whether affiliation and related charges amount to a levy liable to tax.

(b) Attention was invited to the Statement of Objects and Reasons of the CGST Act, which brings all trading and business (commercial) activity within the ambit of GST, the purpose being to reduce cascading effect of tax. Relying upon Section 9(1) read with Section 7 of the Act, 2017, Learned Counsel urged that the primary ingredients to attract levy of GST are that the activity sought to be taxed must be in the course or furtherance of business, and for a consideration ,both ingredients being cumulative and required to be independently established, having regard to the definition of "business" under Section 2(17) of the Act, 2017, which, though covers trade, commerce, manufacture, profession, vocation, adventure, wager or any similar activity , whether or not for pecuniary benefit but it in no way extend to the statutory/regulatory functions of a University.

(c) It was argued that all activities of the Appellant are performed for education, and not business, purposes, and are therefore outside the scope of Section 7 of the Act, 2017. Quoting T.M.A. Pai Foundation v. State of Karnataka, (2002) 8 SCC 481, it was urged that activities carried out by educational institutions cannot be termed commercial in nature and do not fall within the definition of "business," and that incidental or ancillary activities to education would equally not fall within the ambit of "business."

It was argued, the activities of a University granting affiliation do not qualify as "supply" within the ambit of Section 7 of the Act, 2017.

(d) Ld. Counsel further argued that education is a mission and not a trade or business, and that the Appellant carries out its affiliation-related activities without any profit motive. Reliance was placed on the judgment of the Hon'ble Apex Court on the question whether education is to be regarded as a business, as well as on Commissioner of Sales Tax v. Sai Publication Fund, (2002) 4 SCC 57, to substantiate that where the main and dominant activity of an entity is not business, any incidental or ancillary transaction would amount to "business" only where an independent intention to carry on business in that incidental/ancillary activity is established , the burden of proving such intention lies on the respondent. Since the dominant activity of the Appellant is education, it was asserted that the affiliation activity cannot be treated as a business activity to attract levy.

(e) It was further urged that the concept of consideration mandates a contractual relationship and quid pro quo between the parties. As per appellant the affiliation fee collected by the Appellant does not satisfy this requirement, as the grant, renewal, or withdrawal of affiliation is undertaken in discharge of a public/statutory duty and lacks any commercial element or contractual reciprocity. Reliance was placed on the decision of the Karnataka High Court in Principal

Addl. Directorate General, DGGSTI v. Rajiv Gandhi University of Health Sciences, wherein it was held that affiliation creates a kind of "umbilical cord" between the affiliating body and the affiliated entity; that though fees are levied for grant or renewal of affiliation, the act of granting, renewing, or withdrawing affiliation is done in discharge of public duties enjoined by law and therefore does not fall within the expression "activities carried on for consideration," particularly where no commercial element is present. Further reliance was placed on Assistant Commissioner of Income Tax (Exemptions) v. Ahmedabad Urban Development Authority, (2023) 4 SCC 561, in support of the proposition that affiliation fees and other fees collected by universities are statutory/regulatory fees and do not qualify as "consideration."

(f) It was emphasized that Universities are creatures of statute, regulated by statutory provisions, rules, and regulations, and that the activities undertaken by them including the levy of affiliation fees, prospectus fees, migration certificate fees, sports fees, etc. are per se not commercial in nature but are undertaken in discharge of the State's duty to provide education. Ld. Counsel added that where a university is a creature of statute established for the purpose of ensuring proper and systematic instruction, teaching, training, and research, its regulatory and statutory functions do not fall within the scope of "supply" amenable to GST.

(g) Without prejudice to the above, and even assuming that Universities are providing services, it was highlighted by Ld. Counsel that such services are exempt under Entry No. 66 of Notification No. 12/2017-CT(R) dated 28.06.2017. This entry exempts

> (a) services provided by an educational institution to its students, faculty and staff, and
>
> (b) services provided to an educational institution relating to admission to, or conduct of examination by, such institution [clause (b)(iv)].

Reliance was placed on Karnataka High Court decision in Principal Addl. DGGSTI v. Rajiv Gandhi University of Health Sciences, since confirmed by the Hon'ble Supreme Court and on the Madras High Court decision in Madurai Kamaraj University v. Jt. Comr. of GST & C.Ex., Madurai, 2021 (54) GSTL 385 (Mad.), it was canvassed that a university granting affiliation is itself an "educational institution" within the meaning of the exemption entry, and that the expression "educational institution" is not confined to the affiliated college alone but includes the University. It was pointed out that without affiliation, constituent colleges are not permitted to admit students to courses; that examinations are conducted by, and degrees are ultimately awarded by, the University; and that the fees collected from colleges towards affiliation are therefore squarely covered by the exemption, since the student at an affiliated college must be regarded as a student at the University that confers the degree. It was further explained that the term “education” ought not to be restricted to classroom teaching or instruction, but is a wider term encompassing the design of curriculum, prescription of standards, and grant of affiliation to ensure that education imparted by affiliated institutions conforms to the standards set by the University, the entire process culminating in the conferral of the degree.

(h) On the expression “relating to,” Learned Counsel for the appellant urged that the same must be given a wider connotation, having regard to the language used in the relevant Rules or Notification, and would take within its sweep all activities incidental to admission, since admission can fructify only where affiliation is granted, the curriculum has to be prescribed by the Board/University, and the certificate or degree awarded to the student is issued pursuant thereto. Without affiliation, it was stressed, education cannot be imparted or a qualification conferred, and examinations are an indispensable component of education, without which such education would remain incomplete

(i) It was next contended that affiliation and accreditation are conceptually and legally distinct processes. Affiliation is a formal, statutory relationship between a college and a university, whereby the University grants the college authority to conduct prescribed courses, admit students, and present them for university examinations, the legal mechanism integrating the college into the University's academic and examination system. Accreditation, by contrast, is a quality-assessment exercise carried out by specialized external bodies, evaluating institutional standards without creating any legal relationship permitting the institution to function, and is not a condition precedent to the institution's existence.

(j) Learned Counsel assailed the impugned Order to the extent it relies upon Circular No. 151/07/2021-GST dated 17.06.2021 and Circular No. 234/28/2024-GST dated 11.10.2024 (issued pursuant to the recommendations of the 54th GST Council meeting), which purport to clarify that affiliation services provided by Universities to their constituent colleges are not covered within the ambit of the exemption available to educational institutions, and that only services relating to conduct of entrance examinations, or input services relating to admission/examination, are exempt, while other services such as "accreditation" are taxable at 18%. These Circulars, it was argued, are contrary to the statutory provisions of Sections 7 and 9 of of the Act, 2017, inasmuch as they proceed on the assumption that the affiliation service provided by a University to its constituent colleges would qualify as "supply," without first establishing the jurisdictional fact that the activity satisfies the statutory ingredients of Section 7 of the Act, 2017. Reliance was placed on the decision of the Hon'ble Supreme Court in CCE v. Ratan Melting and Wire Industries, 2008 (231) ELT 22 (SC), for the proposition that clarifications/circulars which are contrary to statutory provisions have no existence in law. Circulars or executive clarifications, it was pressed, cannot override statutory exemption notifications, and reliance on the impugned Circulars, to the extent they seek to restrict the scope of Entry 66 of Notification No. 12/2017-CT(R), is misplaced.

(k) Learned Counsel further relied upon the judgment of the Bombay High Court (Goa Bench) in Goa University v. Joint Commissioner of Central Goods and Service Tax & Ors., W.P. No. 723/2024, decided on 15.04.2025, and urged that the issues involved in the present appeal are squarely covered thereby, the said decision having considered materially identical facts namely, demand of GST on affiliation fees collected by a statutory University from its constituent colleges and held that such affiliation fees are not eligible to GST, both on the ground that the activity does not constitute "supply" under Section 7 for want of consideration/commercial element, and, in the alternative, that even if regarded as a service, it is squarely exempt under Entry 66 of Notification No. 12/2017-CT(R) as a service provided to an educational institution relating to admission and conduct of examinations.

(l) In conclusion, it was pressed that the impugned demand is without jurisdiction, inasmuch as it has been raised without first establishing the jurisdictional fact namely, whether the affiliation activity of the Appellant, being an educational institution, is at all chargeable to tax under the GST law and that the Show Cause Notice and Orders impugned are illegal, arbitrary, and without jurisdiction or authority of law, and contrary to the provisions of the CGST/SGST Act, and deserve to be set aside.

33. Per Contra the Ld. Authorized Representative for the Respondent controverting the submissions made on behalf of the Appellant, submitted as follows:

(a) On the validity of the common Show Cause Notice covering multiple financial years, it was countered by Ld. Authorized representative for the respondent that the contention of the Appellant is legally untenable, as the Act 2017nowhere prohibits issuance of a common Show Cause Notice covering multiple tax periods where the issues arise from the same investigation or audit. it was pointed out that the respondent has separately identified the tax liabilities period-wise in the Show Cause Notice dated 19.01.2024; that Section 74 of the Act, 2017 has been invoked only in respect of the period involving suppression/fraud, whereas Section 73 of the Act, 2017 has been invoked for the remaining period; and that the validity of the notice has to be examined with reference to compliance with limitation for each tax period individually, and not merely on the ground that several years have been clubbed together in a single notice. Neither the Show Cause Notice nor the Adjudication Order, it was maintained, becomes invalid merely because multiple financial years are covered therein. Reliance was placed on the judgment dated 26.08.2025 of the Hon'ble High Court of Delhi in M/s Mathur Polymers v. Union of India (upheld by the Hon'ble Supreme Court vide Order dated 07.11.2025); the judgment dated 29.07.2025 of the Hon'ble High Court of Delhi in M/s Ambika Traders v. Additional Commissioner, Adjudication, DGGI, Delhi (upheld by the Hon'ble Supreme Court vide Order dated 01.09.2025); the judgment dated 16.03.2026 of the Hon'ble High Court of Delhi in M/s Technosys Integrated Solutions Pvt. Ltd. v. Union of India; and the Order dated 06.01.2025 of the Hon'ble High Court at Bombay in M/s Riocare India Pvt. Ltd. v. Assistant Commissioner, CGST & C.Ex.

(b) On the question whether the Appellant is carrying on 'business' and making taxable supplies, it was argued by Ld. Authorized representative of the respondent that mere registration as a society does not determine GST liability, and that Section 2(17) of the Act, 2017 provides an inclusive definition of "business." The affiliation fees, annual registration fees, late fees and similar charges collected by the Appellant, it was contended, are consideration for identifiable services, which include grant of affiliation, continuation of affiliation, monitoring of compliance, inspections, and other regulatory functions, and these constitute supplies made in the course or furtherance of business within the meaning of Section 7 of the Act, 2017, thereby attracting levy of GST under Section 9. Recognition of the Appellant under the education laws or under the Income-tax Act, it was pointed out, is irrelevant for determining taxability under the CGST Act, and Circular No. 151/07/2021-GST merely clarifies the exemption available to educational institutions and does not grant a blanket exemption to all receipts of the Appellant. Reliance was placed on the Order-in-Original dated 30.04.2024 (Para 20.3) and on the judgment dated 30.07.2018 of the Hon’ble Supreme Court in Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Company (Paras 41, 43 and 52(3)).

(c) On the exemption claimed under Entry 66 of Notification No. 12/2017-CT(R), it was submitted that Entry 66(b)(iv) exempts only services relating to admission to, or conduct of examination by, an educational institution, and that affiliation is a distinct administrative function involving scrutiny of infrastructure, faculty, governance and prescribed standards, which precedes and is independent of admission and examinations. Affiliation, it was contended, constitutes an independent supply rendered for consideration, and the mere fact that affiliated schools subsequently conduct examinations does not convert the affiliation service into an examination-related service so as to attract the exemption. It was further pointed out that Circular No. 151/07/2021-GST does not exempt every receipt of an educational Board, and that affiliation charges, annual affiliation charges and registration charges accordingly remain taxable, as recommended by the GST Council. Reliance was placed on the Order-in-Original dated 30.04.2024 (Paras 20.3 to 20.6), the Order-in-Appeal dated 13.01.2025 (Paras 5.3.1 to 5.3.5), and the judgment dated 30.07.2018 of the Hon'ble Supreme Court in Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Company (Paras 41, 43 and 52(3)).

(d) On the applicability of Circular No. 234/28/2024-GST, it was urged that the Circular, issued under Section 168 of the CGST Act for ensuring uniform implementation, continues to bind departmental officers, and that judgments of the Hon'ble High Courts of Karnataka and Bombay do not automatically bind authorities functioning outside their respective territorial jurisdictions. The Circular, it was explained, merely clarifies the Department's understanding of Entry 66 of Notification No. 12/2017 and does not create any new levy, and the substance of affiliation and accreditation is similar, inasmuch as both involve scrutiny of standards prior to grant of recognition; hence, reliance placed on the said Circular by the Adjudicating/Appellate Authority is legally justified. Reliance was placed on the judgment dated 10.02.2026 of the Division Bench of the Hon'ble High Court of Madras (Madurai Bench) (Paras 8.10 and 9).

(e) On annual registration charges and late registration charges, it was maintained that these charges represent independent consideration for services supplied by the Council and do not relate to admission or conduct of examinations, so that the exemption under Entry 66 of the Exemption notification is not available in respect thereof. Late registration charges, it was pointed out, constitute additional consideration for delayed payment, and under Section 15(2)(d) of the Act, 2017, interest, late fee or penalty for delayed payment forms part of the value of supply and is taxable at the same rate as the principal supply; further, no exemption notification specifically covers such charges.

(f) The claim for cum-tax benefit under Rule 35 of the Rules 2017, it was argued that the said rule applies only where it is established that the price charged was inclusive of GST, and that the burden of proof lies upon the supplier claiming such benefit. It was pointed out that the Appellant has not produced invoices, agreements, fee notifications, accounting records, or correspondence to demonstrate that the fees collected were GST-inclusive, and that the mere absence of a separate GST column in the fee structure cannot give rise to a presumption that the consideration included GST. Rule 35, of the Rules 2017, was accordingly urged, is not attracted in the facts of the present case.

(g) On invocation of the extended period under Section 74 of the Act, 2017 it was contended that the taxable supplies in question were never disclosed as taxable in the GST returns filed by the Appellant, and that GST was not paid despite the statutory obligation of self-assessment. The liability, it was pointed out, came to the notice of the Department only through investigation, and material facts were, therefore, suppressed from the Department; the mere existence of books of account or disclosures on the Appellant's website does not amount to statutory disclosure for the purposes of GST law; and no advance ruling or clarification was sought by the Appellant at any stage. It was further urged that pendency of similar disputes under the erstwhile Service Tax regime cannot excuse non-compliance under the GST regime, and that the Adjudicating Authority has recorded specific findings of suppression based on the material on record. Invocation of Section 74 of the Act, 2017, and the consequential demand of tax, interest and penalty, were accordingly defended as legally sustainable. Reliance was placed on the Order-in-Original dated 30.04.2024 and the Order-in-Appeal.

34. Having bestowed anxious consideration to the rival submissions, and upon careful perusal of the record including the SCN dated 18.01.2024, the OIO dated 30.04.2024, the impugned order dated 09.01.2025, the memorandum of appeal, the counter of the respondent, and the judicial decisions cited at the Bar, we have heard the Ld. Counsels for parties as well as we have perused the record.

The arguments were advanced by Sh. M.P. Rastogi, Ld. Counsel on behalf of appellant and by Sh. Davashya Jyoti Jyotirmoy, Ld. Joint Commissioner (Authorized Representative) on behalf of the respondent.

35. OUR FINDINGS ON EACH ISSUE ARE DELINEATED BELOW:

Issue no I:

Whether the issuance of SCN for a consolidated period of July 2017 to November 2023, covering various limitations and the order passed in furtherance thereto for a consolidated period is in accordance with the law or not; whether assessment involves a definite tax period based on the due date of filing of the return; whether different tax periods can be covered in a single show cause notice?

36. We have noted that a single SCN dated 18.01.2024 has invoked Section 74 of the Act 2017 for the period July 2017 to August 2018 and Section 73 of the Act 2017 for the period September 2018 to November 2023. Section 73 of the Act, 2017 deals with determination of tax not paid, short paid, erroneously refunded, or ITC wrongly availed/utilized for reasons other than fraud, wilful misstatement or suppression of facts; Section 74 of the Act, 2017 deals with the same by reason of fraud, wilful misstatement or suppression of facts. These provisions operate under different legal frameworks with different ingredients, limitation periods and penal consequences.

37. For ready reference while determining this issue, we reproduce the rival submissions of the parties relevant to this issue as recorded above. The appellant contended that the SCN dated

18.01.2024 covers a consolidated period of July 2017 to November 2023, invoking both Section 73 and Section 74 of the Act 2017 in a single notice, The issuance of a consolidated SCN for different periods attracting different limitation periods and different penal provisions in a single document is contrary to law. Assessment involves a definitive tax period based on the due date of filing of the return. If the assessment is based on the due date of annual return, the tax period shall be the relevant financial year. Different tax periods cannot be covered in a single show cause notice. As against this, the respondent submitted that the contention of the Appellant is legally untenable, as the CGST Act nowhere prohibits issuance of a common Show Cause Notice covering multiple tax periods where the issues arise from the same investigation or audit. The respondent has separately identified the tax liabilities period-wise in the Show Cause Notice dated 18.01.2024; that Section 74 CGST Act has been invoked only in respect of the period involving suppression/fraud, whereas Section 73 CGST Act has been invoked for the remaining period; and that the validity of the notice has to be examined with reference to compliance with limitation for each tax period individually, and not merely on the ground that several years have been clubbed together in a single notice.

For the reasons which follow, we find ourselves in agreement with the submission of the Ld. AR for the respondent.

38. The distinction between the two provisions pertains to the nature of the allegation, the applicable period of limitation, and penal consequences; it does not create a statutory embargo against consolidation in a single adjudicatory instrument. This position is reinforced by the statutory language of Sections 73(3), 73(4), 74(3) and 74(4) of the Act 2017, which employs the expressions "for any period" and "for such periods", in contradistinction to the expression "financial year" used in Sections 73(10) and 74(10) of the Act 2017, thereby expressly contemplating a notice covering a period spanning more than one financial year.

39. The appellant has relied upon decision of Hon'ble High Court of Mumbai in M/s Milroc good earth developers, Mariposa Beachgrove Vs Union Of India 2025(10) TMI 867and other Hon'ble High Courts to substantiate the claim that consolidating various financial years/tax periods in a single show cause notice is impermissible. We would, however, prefer to follow the view taken by the jurisdictional Hon'ble High Court of Delhi on an identical issue in W.P.(C) 4853/2025 M/S Ambika traders Vs Additional Commissioner, the relevant part of which is reproduced as under:

> *"44. Some of the other provisions of the Act ,2017, which are relevant, include Section 2(106) of the Act ,2017, which defines 'tax period' as under:*
>
> *'2.[...] (106) "tax period" means the period for which the return is required to be furnished'*

45.Thus, Sections 74(3), 74(4), 73(3) and 73(4) of use the term 'for any period' and 'for such periods. This would be in contrast with the language used in Sections 73(10) and 74(10) of the CGST Act where the term 'financial year' is used. The said provisions read as under:

'73.[...] (10) The proper officer shall issue the order under sub-section (9) within three years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within three years from the date of erroneous refund'

'74.[...] (10) The proper officer shall issue the order under sub-section (9) within a period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within five years from the date of erroneous refund.'

The Legislature is thus conscious of the fact that insofar as wrongfully availed ITC is concerned, the notice can relate to a period and need not be for a specific financial year."

40. It is relevant to note that Special Leave Petition (C) no 23774/2025 Dated 01/09/2025 titled Ambika traders Vs Additional Commissioner was preferred against the orders of Hon'ble High Court, which was dismissed by Hon'ble Apex Court as not pressed.

41. In W.P.(C) 2394/2025, M/s Mathur Polymers v. Union of India & Ors, Hon'ble High Court of Delhi has followed its earlier ruling in M/S Ambika Traders (Supa). The Special Leave Petition against the said judgment, SLP (Civil) Diary No. 50279/2025 of Hon'ble High Court of Delhi, was dismissed by the Hon'ble Supreme Court, which found no good ground and reason to interfere with the impugned judgment/order.

42. Further, in W.P.(C) 5581/2025, M/s Technosys Integrated Solutions Pvt. Ltd. v. Union of India & Os., decided on 16.03.2026, the Hon'ble High Court of Delhi followed its earlier ruling in M/s Ambika Traders v. Additional Commissioner, Adjudication, DGGI, Delhi, holding as under:

> *"21. As already observed hereinabove, this Court is not delving in the present proceedings to determine whether fraud is, in fact, made out and therefore will not undertake the adjudication on that point. However, insofar as the submission seeks to confine Ambika Traders only to cases involving allegations of fraudulent availment or utilisation of ITC across financial years, this Court is unable to agree. In this context, we deem it important to reproduce the relevant para of the said judgment:*
>
> *'43. Insofar as the issue of consolidated notice for various financial years is concerned, a perusal of section 74 of the CGST Act would itself show that at least insofar as fraudulently availed or utilised ITC is concerned, the language used in section 74(3) of the CGST Act and section 74(4) of the CGST Act is "for any period" and "for such periods" respectively. This contemplates that a notice can be issued for a*

period which could be more than one financial year. Similar is the language even in section 73 of the CGST Act.'

43. The extract from Ambika Traders (supra) leaves no manner of doubt that Hon'ble High Court, in the said judgment, contemplated and accepted consolidation of SCNs covering multiple financial years under both Section 73 and Section 74 of the Act 2017.

44. The Hon'ble High Court of Delhi in M/s Raghunath Enterprises v. Additional Commissioner, CGST, Delhi North, W.P.(C) 5352/2025, decided on 20.08.2025, following Ambika Traders (supra), held that the consolidation of SCN for multiple years has been allowed in cases where ITC has been fraudulently availed.

45. In view of dictum in cited case laws we are of considered opinion that in the absence of any demonstrated prejudice, confusion, denial of opportunity, or jurisdictional incompetence, such consolidation remains a matter of procedural form. Where, therefore, a consolidated notice under Section 73 or Section 74 of the Act 2017 has been issued and the appellant has been afforded a full and fair opportunity to respond to the allegations therein, the mere fact of consolidation, in the absence of demonstrable prejudice, cannot vitiate or invalidate the proceedings under the GST regime. The appellant has not demonstrated any prejudice flowing from the consolidated format.

46. Issue No. I is decided accordingly with decision that the proceedings in this particular matter are not vitiated solely on the ground of the issuance of a consolidated SCN and order passed for a consolidated period covering July 2017 to November 2023.

<u>Issue no II & Issue no III</u>

Issue no. II: Whether the activities of the appellant constitute 'supply' under Section 7 read with Section 9 of the Act 2017?

Issue no. III: Whether affiliation (including affiliation processing/form charges) is an independent taxable supply or forms an integral part of 'services relating to admission to, or conduct of examination' under the Exemption Notification dated 28.06.2017, and is thereby exempt?

These two issues are taken up together, being interwoven.

47. We have carefully examined the rival submissions and the judicial precedents.

48. The question arises whether the appellant/CISCE's activities constitute 'supply '. The scope of term "Supply "as contained in section 7 of the Act 2017 is as under;

> ***Section 7. Scope of supply. -***
>
> *(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; [2][and]

(c) the activities specified in Schedule I, made or agreed to be made without a consideration; [3][****]

(d) [4][****].

[(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.]

.

.

.

49. Therefore, it's clear from this provision of S. 7(1)(a) of the Act 2017 that it includes all forms of supply of goods or services made

or agreed to be made for consideration by a person in the course or furtherance of business.

Further, as per section 2 (17) of the act 2017

" 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 subscription or any other consideration) of the facilities or benefits to its members;

(f)

.

.

50. Succinctly, the definition of Business as contained u/s 2(17)(a) to Act 2017 includes any trade, commerce, manufacture, profession, vocation, adventure, wager or any other activity, **<u>whether or not it is for a pecuniary benefit.</u>** As per sub-clause (c), it also

includes any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction. The definition of business also includes provision by a Society, Club or Association of facilities or benefit to its members for a subscription or any other consideration.

51. The appellant/CISCE is a society registered under Society Registration Act. It provides affiliation, registration, examination, and related services to schools for defined fees. The fees are not gratuitous; they are consideration for identifiable and specific services. The appellant/CISCE is engaged in regular and continuous activity involving the provision of services against consideration. These activities fall squarely within 'supply' as defined under Section 7(1)(a) read with Section 2(17) of the Act 2017.

52. The Hon'ble High Court decisions in University of Mumbai (supra), Goa University (supra), and Rajasthan Technical University (supra), while learned and persuasive, were rendered exclusively in the context of statutory universities constituted under specific Parliamentary or State legislative enactments, exercising statutory powers mandated by law. The appellant/CISCE, on the other hand, is a society registered under the Societies Registration Act, 1860. It is not constituted by any Parliamentary or State enactment, nor does it discharge any function made obligatory by a statute. Its fee-rates are fixed

internally by its own financial committee. This distinction is material. The ratio of decisions involving statutory universities discharging compulsory statutory functions cannot be extended mechanically to a registered society whose governance, finances, and fee-structure are self-determined.

53. Further, the Ahmedabad Urban Development Authority judgment relied upon by the appellant pertains to a statutory body discharging compulsory regulatory functions under a legislative mandate; that decision does not govern a society that voluntarily determines its fees and services.

54. Now coming to the other issue, the relevant extract of Exemption Entry No. 66 of the Exemption Notification dated 28.06.2017, issued under Section 11(1) of the Act, 2017, reads as under:

> *"66. [Heading 9992 or Heading 9963] Services provided —*
>
> *(a) by an educational institution to its students, faculty and staff;*
>
> *(aa) by an educational institution by way of conduct of entrance examination against consideration in the form of entrance fee;*
>
> *(b) to an educational institution, by way of —*
>
> *(iv) services relating to admission to, or conduct of examination by, such institution"*

It is therefore apparent that Entry No. 66(b)(iv) of the Exemption Notification dated 28.06.2017 exempts only "services relating to admission to, or conduct of examination by, such institution."

55. At the outset, it would be apposite to examine the legal principles laid down by the Hon'ble Supreme Court and various Hon'ble High Courts governing the field, as the said precedents have a direct bearing on the controversy involved herein. Accordingly, at the outset we propose to examine the judicial precedents placed before us, in the light of the authoritative principles of interpretation laid down by the constitution Bench of the Hon'ble Supreme Court in Commissioner of Customs (Import), Mumbai v. Dilip Kumar & Company [(2018) 9 SCC 1] (hereinafter called "Dilip Kumar case"). **The constitution bench of the Hon'ble Supreme Court**, speaking through a Bench of five Judges, has definitively and bindingly settled that exemption notifications under fiscal statutes must be strictly interpreted; that the burden of proof to bring a case within the exemption lies squarely upon the assessee; that any ambiguity in an exemption notification must be resolved in favour of the revenue and not the assessee. The earlier decision of Hon'ble Supreme Court of India in M/S Sun Export Corporation, Bombay vs The Collector of Customs, Bombay & Anr on 7 July 1997 (AIR 1997 supreme court 2658) which had held to the contrary was expressly overruled. We also cannot lose sight of the fact that the Constitution Bench in Dilip Kumar case (supra) was addressing precisely the situation where

two possible readings of an exemption notification existed; one broader, one narrower and it definitively held that the narrower reading, favoring the Revenue, must prevail. The earlier decision in Sun Export Corporation (supra), which had permitted a broader construction in cases of ambiguity, was expressly overruled by the Constitution Bench.

56. The constitution bench Hon'ble supreme court reaffirmed the dictum of Hansraj Gordhandas v. H.H. Dave (AIR 1970 SC 755) that exemption from taxation is determined wholly by the language of the notification, without recourse to equitable or purposive considerations. It referred with approval to Lord Halsbury in Commissioner of Inland Revenue v. James Forrest [(1890) 15 AC 334], to Partington v. Attorney General [(1869) LR 4 HL 100], and to the celebrated dictum of Rowlatt J. in Cape Brandy Syndicate v. Inland Revenue Commissioners [(1921) 1 KB 64]: **"In a taxing Act one has to look merely at what is clearly said. There is no room for any intendment. There is no equity about tax. Nothing is to be read in; nothing is to be implied."** The Hon'ble Constitution Bench also reaffirmed, with approval, the celebrated rule stated by Rowlatt J. in Cape Brandy Syndicate case (Supra). This is a Constitution Bench pronouncement that is absolutely binding upon every court, tribunal, and authority in India, including this Tribunal, by virtue of Article 141 of the Constitution of India.

57. Now turning to the Hon'ble High Court decisions, i.e., Principal Addl. DG DGGSTI v. Rajiv Gandhi University of Health Sciences [(2024) 22 Centax 526 (Kar.)], it was held therein that affiliation by a university to affiliated colleges creates an 'umbilical cord' and is not a commercial service amenable to service tax/GST.

58. We note that the Special Leave Petition preferred by the Revenue against the aforesaid judgment of the Hon'ble Karnataka High Court, being SLP (Civil) Diary No. 59470/2024, came to be dismissed by the Hon'ble Supreme Court. Thereafter, we have come across a recent judgment of the Hon'ble Supreme Court in Bharathidasan University, by its Registrar v. Joint Commissioner of GST (ST-Intelligence), Trichy Division & Anr., Special Leave Petition (C) Nos. 17945–17948 of 2026, order dated 16.07.2026, arising from the Madras High Court's Division Bench ruling on the question of taxability of affiliation fees. However, the question of what precedent value attaches to such dismissal/disposal of earlier SLP (Civil) Diary No. 59470/2024 against judgement of Karnataka high court has been considered by the Hon'ble Supreme Court in the Bharathidasan University case (Supra), which we have also discussed in the later paragraphs of this judgment along with its ratio applicable in our matter.

59. Further, the Rajiv Gandhi University decision was rendered in the context of a statutory university and, to the extent it relied upon a

purposive reading of exemption entries, must be applied with the caution mandated by the Dilip Kumar case (supra), as we are not dealing with the case of a university but are required to decide the taxability of a council.

60. University of Mumbai v. Union of India [2026 SCC On Line Bom 2751] and Goa University v. Joint Commissioner of CGST [2025 SCC On Line Bom 1262] are decisions of the Hon'ble Mumbai High Court holding that statutory universities collecting affiliation fees are not engaged in 'supply' under Section 7 of the Act 2017; that affiliation fees are not 'consideration'; and that Entry 66 of the Exemption Notification dated 28.06.2017 must be purposively interpreted to cover all services forming the backbone of educational delivery, including affiliation.

61. Similarly, In Rajasthan Technical University v. Union of India [D.B. CWP No. 9556/2024, Raj. HC, 23.02.2026] it was held that affiliation is statutory/regulatory in character and GST levy is illegal, once again in the context of a statutory university. In Madurai Kamaraj University v. Jt. Comm. of GST & C.Ex., Madurai [(2021) 94 GSTR 192 (Mad.)] it was held that the term 'educational institution' in Entry 66 includes the university/board itself and that affiliation fees fall within the exemption. Manonmaniam Sundaranar University v. Joint Director (GST Intelligence) [2021-TIOL-888-HC-MAD-ST] held that affiliation fees are statutory levies not amenable to GST.

62. These are Hon'ble High Court decisions of persuasive value. However, the question of how far "services relating to admission to or conduct of examination" in Entry 66(b)(iv) of Notification dated 28.06.2017 can be extended to cover affiliation must be answered primarily by reference to the plain language of the entry, strictly construed as mandated by the constitution bench of Hon'ble Supreme Court in Dilip Kumar case (supra). The broad purposive readings adopted in several of these Hon'ble High Court decisions, while well-intentioned, must be measured against the strict interpretive standard authoritatively prescribed.

63. Under the law of precedents, these decisions, while learned and deserving of respect are decisions of a Hon'ble High Court and cannot be treated as overriding the constitution bench pronouncement in Dilip Kumar case (supra) on the question of interpretation of exemption notifications. Furthermore, both decisions involved statutory universities exercising statutory powers under specific legislative enactments, and their ratio must be carefully examined before being applied to a registered society such as the appellant.

64. The income-tax precedent in APL No. 10/CISCE v. Commissioner of IT, lhi recognizing CISCE as an educational/charitable institution, while reinforcing the non-commercial character of the appellant, operates in a different statutory and conceptual domain and does not directly address the construction of exemption notifications under Act, 2017.

65. In sum and substance, the Hon'ble High Court decisions mentioned here in above are at best persuasive authority. They do not, and cannot, as already said override the binding constitutional principle in Dilip Kumar case (supra) that exemption notifications must be strictly construed, and that any ambiguity must enure to the benefit of the Revenue.

66. Therefore, in terms of the binding mandate of the Constitution Bench of the Hon'ble Supreme Court in Dilip Kumar case (supra), the expression "services relating to admission to, or conduct of examination by, such institution", as contained in Entry No. 66(b)(iv) of the Exemption Notification dated 28.06.2017, must be strictly construed ,the burden lies squarely upon the assessee/appellant to establish that its case falls plainly within the language of the exemption entry, and any ambiguity must be resolved in favour of the respondent/Revenue.

67. When the expression "services relating to admission to or conduct of examination" in Entry 66(b)(iv) of the Exemption Notification dated 28.06.2017 is read strictly, as it must be under the Dilip Kumar case (supra), the words "relating to" can at best extend to services that are directly and immediately connected with the process of examination, such as setting question papers, conducting the examination, invigilating, declaring results, and issuing certificates. They cannot, by any legitimate process of strict construction, be extended to affiliation, which is a pre-contract eligibility-screening function performed for the benefit of the

school as a corporate entity, occurring much before any examination takes place. The relationship between affiliation and examination is too remote and too mediated by independent intervening events; the school's own educational processes the student's own academic performance, and the annual registration cycle to constitute the direct nexus that "relating to" requires when read strictly.

68. The appointment and salary of teachers also "relates to" examination, because without teaching there can be no student ready to sit for one. That the entire edifice of education is, in this extended sense, "in relation to" examination, cannot, when the statutory scheme is examined holistically, be what the legislature intended by the phrase "services relating to admission to, or conduct of examination" in Entry 66(b)(iv) of the Exemption Notification dated 28.06.2017. The exemption is targeted, specific, and confined to activities that are constitutive of the examination process itself, not to every activity in the chain of causation that ultimately leads to an examination being held. Applying the Doypack case (supra) reasoning to this entry would obliterate any distinction between taxable and exempt services and would render the entry boundless and otiose, an outcome plainly contrary to the principle of strict construction and to the legislative design of a targeted exemption.

69. The submission of the Ld. Counsel for the appellant that the affiliation in question is covered within the exemption notification cannot be accepted. The appellant reads too much into the phrase and seeks an unduly expansive interpretation of a term which, by its ordinary and contextual meaning, does not embrace the transaction in question. The **maxim verbis legis non est recedendum ("one must not depart from the words of the law")** cautions against reading a word divorced from its statutory context. An interpretation as advanced by the appellant amounts, in effect to supplying a casus omissus ("a case omitted is to be held as intentionally omitted"), importing meanings not contemplated by the legislature. The Tribunal cannot, under the guise of purposive interpretation, rewrite the exemption provision or expand its ambit contrary to its text. Accordingly, the affiliation in question falls outside the scope of the exemption, and no benefit thereunder can be extended to the appellant.

70. In sum and substance, the reliance placed by the appellant, upon Doypack Systems Pvt. Ltd. (supra), to canvass a broad reading of "in relation to" in an exemption notification under a fiscal statute, is unsustainable. Doypack (supra) was a case of general regulatory legislation, whereas the Constitution Bench in Commissioner of Customs (Import), Mumbai v. Dilip Kumar and Company, (2018) 9 SCC 1, was directly concerned with the interpretation of a fiscal exemption notification and laid down the governing principle applicable to all such exemptions. The Hon'ble Constitution Bench

clarified that the burden lies on the assessee to establish, without doubt, that its case falls squarely within the exemption clause, and held that strict interpretation is the literal rule of interpretation, requiring the language of the provision to be applied as it stands, with no scope for interpretation where the language is clear. Applying the correct principle, the words "relating to" in Entry 66(b)(iv) of the Exemption Notification dated 28.06.2017, read strictly and in a fiscal context against the assessee, do not and cannot extend to affiliation.

71. Affiliation is a regulatory function performed by the appellant/CISCE for the benefit of schools as institutions. It involves evaluation of the school's infrastructure, financial capacity, and adherence to prescribed norms, and culminates in the grant or refusal of formal recognition to the school under the CISCE framework. This service is rendered to the school as an entity; it is not a service rendered to any student, nor is it a service directly relating to the conduct of any examination. The affiliation process occurs much before any examination and is a threshold eligibility determination for the school. The nexus between affiliation and the conduct of examination is, at best, indirect and remote; schools must first affiliate, and only thereafter can their students appear. Affiliation cannot be brought within "services relating to admission to, or conduct of examination" without supplying, by implication and inference, what the notification does

not say. The first appellate authority correctly held affiliation to be an independent taxable supply.

72. It may be noted that the issue of taxability of GST on affiliation fees charged by educational/regulatory boards has recently engaged the attention of the Hon'ble Supreme Court. In Bharathidasan University v. State of Tamil Nadu, arising from GST show cause notices issued under Section 74(5) of the Tamil Nadu Goods and Services Tax Act, 2017 demanding GST on affiliation fees collected by the University from its affiliated colleges, the Hon'ble Madras High Court Division Bench (Madurai Bench), in Bharathidasan University, rep. by its Registrar v. The Joint Commissioner of GST (ST-Intelligence), Trichy Division, Tiruchirappalli & Anr. [W.P.(MD) Nos. 27453, 27456 to 27458 of 2025, **decided on 10.02.2026**; reported at (2026) 183 taxmann.com 565 (Madras)], after referring to the judgements of Hon'ble single benches observed as under;

> *"4.2. The Hon'ble Mr.Justice C.Saravnana has relied his earlier judgments in W.P.No.15333 of 2020 [Pondicherry University, rep by its Registrar (I/c) vs. The Joint Commissioner of GST, Central Excise, Pondicherry, dated 12.10.2023] reported in 2024 (121) GSTR 321 and Sree Ramu College of Arts and Science vs. Authority for clarification and Advance Ruling Reported in (2024) 14 Centax 218 (Mad), wherein the issue is answered against the University.*
>
> *5.The gist of the above two judgments rendered by the Hon'ble Mr.Justice C.Saravnan, are as follows:*

5.1.In Pondichery University's case the Pondichery University contended that the service provided by them falls within the purview of the negative list in Section 66-D(1)(ii) of the Finance Act, 1994 as it stood from 1st July 2012 until its deletion in 2016. Hence, it is not liable to pay Service Tax on the amount collected towards affiliation charges from the colleges affiliated with the University. This plea was negatived by distinguishing the earlier judgment rendered by this Court in Madurai Kamaraj University (supra). According to the learned Judge, the notification issued by the Department being unambiguous, there is no scope for interpretation with the language in the notification.

5.2. In Sree Ramu College of Arts and Science case, the learned Judge has recorded his view on levy of service tax for the affiliation fee as below:

"..76.Deletion of "up to Higher Secondary" to entry 66(b)

(iv) to Notification No.12/2017-CT (Rate), dated February 28, 2017 by Notification No.2/2018-CT (Rate), dated January 25, 2018 however did not mean service provided to the constituent colleges such as petitioner in W.P.No.11038 of 2022 and W.P.No.5967 of 2023 by the Bharathiyar University were exempted after amendment to entry (b)(iv) to entry No.66 to Notification No.12/2017-CT (Rate), dated February 28, 2017 vide Notification No.2/2018-CT (Rate), dated January 25, 2018.

77.There is no ambiguity in the language in entry (b)(iv) to entry 66 to Notification No.12/2017-CT (Rate), dated June 28, 2017 as amended by Notification No.2/2018-CT dated January 25, 2018. Entry (b)(iv) to entry 66 to Notification No.12/2017-

*CT (Rate) dated June 28, 2017 as amended by Notification No.2/2018-CT, dated January 25, 2018 is applicable only for services relating to examination or conduct of examination by the petitioner colleges in W.P.No.11038 of 2022 and W.P.No.5967 of 2023 and not to work relating to affiliation."*66. The Hon'ble Division bench of Madras High Court also referred to a judgement of Hon'ble High Court of Telangana also observed that;

"7.The High Court of Telungana, when called upon to decide the issue of levying service tax affiliation fee collected by the University in Care College of Nursing and others Vs. Kaloji Narayana Rao University and others reported in 2024 (121) GSTR 106, held as below:

"34. Relying upon the constitutional decision of the Hon'ble Apex Court also, we are of the firm view that firstly, the Notification No.12 of 2017, dated 28.06.2017, cannot be made applicable upon inspection and affiliation fees charged by the 1st respondent-University from the educational institutions. Secondly, since so far as inspection and affiliation fees charged by the 1st respondent-University from the educational institutions has not been specifically exempted in terms of the Constitution Bench judgment in M/s. Dilip Kumar and Company (supra), the said benefit cannot be extended to the petitioners. As regards the two decisions rendered by the Karnataka High Court in M/s. Rajiv Gandhi University of Health Sciences (1 supra) and in M/s.Bangalore University (supra), which was heavily relied upon by the learned counsel for the petitioners, we are in complete agreement to the contentions raised by the learned counsel for the

respondent- Department that the learned Single Judge of the Karnataka High Court while passing orders in the aforesaid two decisions, has relied upon the provisions of Finance Act, 1994 (Section 66D) clause (I) of Section 66D of the Finance Act, 1994 which in fact, first of all, stood omitted by the Finance Act, 2016 w.e.f. 14.05.2016. Secondly, what also needs to be mentioned is that under the G.S.T. law there is no such provision as Sub-Clause (ii) of Section 66D of the Finance Act.

Therefore, we are inclined to respectfully disagree with the view taken by the Karnataka High Court in the aforesaid two decisions. Therefore, the said decisions are distinguishable in facts and law."

73. After discussions of the rulings of different Hon'ble High Courts and after appreciation of the reasonings given in the said rulings, the Hon'ble Division Bench of Madras High Court answered the order of reference as below:

"8.1. Affiliation to the colleges by university is prerequisite for any college to admit students for the course offered by the College. It is a prerequisite to admit student and conduct examination for them in respective courses. Only after affiliation is granted, the interface with the University and the admission of students in the affiliated college will commence. Imparting education commences from admission and ends on conferment of degree by the University to which the college is affiliated. In India, there are Universities, which are affiliating universities and there are Educational Institutes, which are standalone Universities, which admit students directly, conduct examination and confer degree, but they are not permitted to grant affiliations to college.

They are deemed to be Universities. No doubt Universities fall within the definition of Educational Institutions. However, the service of granting affiliation is not part of admission of students or conduct of examination for them."

74. The Hon'ble Division Bench Of Madras High Court after referring to the definition of 'service' under Section 2(102)of the Act, the Exemption notification No.12/2017and Circular No. 234/28/2024 GST-dated 11.10.2024 issued by CBIC, which clarifies the applicability of GST on the service of affiliation provided by universities to colleges laid down that the view expressed in the subsequent judgment namely, Pondichery University's case (Supra) declares the correct legal position, since the affiliation fee collected by the Universities does not fall within exemption. Accordingly, the fee collected by the University from the Colleges as affiliation fees was held to be amenable for levy of GST.

75. The Hon'ble Supreme Court in Bharathidasan University, by its Registrar v. Joint Commissioner of GST (ST-Intelligence), Trichy Division & Anr., Special Leave Petition (C) Nos. 17945–17948 of 2026, order dated 16.07.2026, while disposing of the Special Leave Petitions arising therefrom, closed the petitions on the limited ground that certain residual issues remained pending before the Single Judge, granting liberty to the University to agitate the question afresh thereafter.

76. The Hon’ble Supreme Court in Bharathidasan University (Supra) further clarified, relying upon Kunhayammed & Ors. v. State of Kerala & Anr., (2000) 6 SCC 359: AIR 2000 SC 2587, that the earlier dismissal of the Revenue’s Special Leave Petition against a contrary view taken by the Karnataka High Court did not result in merger and did not amount to affirmance of that view on merits. The said order, however, does not pronounce upon the merits of the taxability of affiliation fees, and this Tribunal has accordingly proceeded to decide the issue based on the settled judicial precedents already relied upon hereinabove, read with the statutory scheme of the CGST Act, 2017. It deserves to be highlighted that even statutory universities, constituted under specific legislative enactments and exercising affiliation as a function conferred by such statutes, have been held, in the very decisions discussed hereinabove including the Pondicherry University case (supra), to be amenable to the levy of GST on affiliation fees collected by them from their constituent colleges, such fee having been held not to fall within the exemption. If a statutory university, deriving its very existence from an Act of the Legislature has been held to be not entitled to claim exemption from GST on affiliation fees, the case of the present appellant which being a society registered under Society Registration Act, 1860, a fortiori stands on a distinctly weaker footing.

77. Regarding the regularisation granted on an "as is where is" basis during the period of ambiguity, the first appellate authority rightly held that the demand of GST on affiliation services for the period from July 2017 to June 2021 was unsustainable and, accordingly, set aside the same. However, such relief was confined strictly to the aforesaid period, and the taxability for the subsequent period commencing from 18.06.2021 till November 2023 remained unaffected, in terms of the findings recorded by the first appellate authority. In support of this conclusion, reliance is placed upon Circular No. 234/28/2024 dated 11.10.2024, F. No. CBIC-190354/149/2024-TO(TRU-II)-CBEC, issued by the Government of India, Ministry of Finance, Department of Revenue (Tax Research Unit), North Block, New Delhi, wherein it has been clarified as under:

> *"Therefore, as recommended by the GST Council, it is clarified that services of affiliation, provided to schools by Central or State educational boards or councils, or other similar bodies, by whatever name called, are taxable. Further, as recommended by the Council, the payment of GST on the services of affiliation provided by Central and State educational boards or Councils, or other similar bodies, to all schools is regularised on 'as is where is' basis for the period from 01.07.2017 to 17.06.2021."*

78. In view of the foregoing discussion, and in view of a meaningful interpretation of the statutory framework, we are of the considered opinion that the appellant/CISCE's activities

constitute ‘supply’ within the meaning of Section 7(1)(a) read with Section 2(17) of the Act 2017, and that affiliation is an independent taxable supply falling outside the exemption under Entry 66(b)(iv) of the Exemption Notification dated 28.06.2017. The first appellate authority was right in confining the “as is where is” regularisation relief strictly to the period July 2017 to June 2021, and in sustaining the demand on affiliation fees and affiliation processing/form charges for the period 18.06.2021 to November 2023. Additionally, this Tribunal has independently found, as discussed in paragraphs here in above, that the appellant/CISCE, being a registered society under the Societies Registration Act, 1860, and not a statutory university constituted under any Parliamentary or State legislative enactment discharging compulsory statutory functions, cannot avail the benefit of decisions rendered exclusively in the context of such statutory bodies; and this independent finding of the Tribunal further reinforces the conclusion that CISCE’s activities fall squarely within the charging provisions of the Act, 2017. The ratio of decisions involving statutory universities and institutions discharging compulsory statutory functions cannot be extended mechanically to a registered society whose governance, finances, and fee-structure are self-determined. Thus, the activities of the appellant constitute ‘supply’ and are chargeable to GST. The demand on affiliation fees and affiliation processing/form charges for the post-June 2021 period, as sustained in the impugned order dated 23.01.2025, is upheld.

79. Issues no. II & III are accordingly decided in favour of the respondent to the effect that the activities of the appellant constitute 'supply' under Section 7 read with Section 9 of the Act, 2017 ;and that the Affiliation (including affiliation processing/form charges) is an independent taxable supply and do not forms an integral part of 'services relating to admission to, or conduct of examination' under the Exemption Notification dated 28.06.2017, and therefore is not exempted from levy of tax.

Issue no IV:

Whether annual registration charges and late registration charges are independent taxable supplies or are intrinsically connected with affiliation/examination functions and are eligible for exemption under the said Notification?

80. It is the case of the appellant that the annual registration charges as well as late annual registration charges are in the nature of affiliation fee for continuance of affiliation of schools, being charged annually for continuance of affiliation, in default whereof the school would stand de-affiliated. On this basis it is contended that the Appellate authority ought to have exempted the whole of the annual registration charges and late charges, not only for the period July 2017 to 17th June 2021 (as already exempted by the appellate authority in relation to affiliation charges), but also for the subsequent period 18th June 2021 to

November 2023, under the said Exemption Notification, as claimed by the appellant.

81. The respondent simultaneously controverted the above ground on the following counts:

(i) The annual registration charges and late charges for annual registration are an independent consideration received for continuation of affiliation and maintenance of the affiliation status of schools, collected towards continued monitoring, regulatory oversight, administrative processing and renewal of affiliation, and are distinct from services relating to admission of students or conduct of examinations.

(ii) The exemption under Entry 66 of Notification No. 12/2017-CT (Rate) dated 28.06.2017 is a specific exemption applicable only to services expressly covered therein; annual registration charges and late payment charges do not fall within the ambit of "services relating to admission to, or conduct of examination by, an educational institution," and the appellant is not entitled to claim exemption merely on the ground that such charges are connected with continuation of affiliation.

(iii) The appellant's contention that annual registration charges are identical to affiliation fees is stated to be misconceived; even assuming such charges to be incidental to affiliation, the taxability of affiliation-related services has been examined separately, and it is contended that the appellate authority has rightly upheld the levy of GST for the period from 18.06.2021 onwards, and that annual registration charges and late registration charges, being ancillary to the affiliation process, are equally liable to GST for the said period.

(iv) Late registration charges, being recovered on account of delayed compliance, are stated to constitute additional consideration in respect of the principal supply of continuation of affiliation, and in terms of Section 15(2)(d) of the CGST Act, any interest, late fee or penalty for delayed payment of consideration forms part of the value of supply and is liable to GST at the same rate as the principal supply.

(v) It is contended that the appellant has failed to establish any specific exemption under the CGST Act or Notification No. 12/2017-CT (Rate) covering annual registration charges or late registration charges, and that exemption notifications are required to be construed strictly, with no exemption extendable by implication.

82. On this basis, the respondent submits that the appellate authority has rightly upheld the levy of GST on annual registration charges and late charges for annual registration for the period from 18.06.2021 to November 2023, and that the ground raised by the appellant deserves to be rejected.

83. The appellant in the rejoinder has additionally relied upon the decision in the case of Rajiv Gandhi University (supra), submitting that annual renewal charges were, in that case, also held to be exempt in support of its contention that the annual registration charges, being of the same nature as affiliation charges, deserve to be exempt not only for the period July 2017 to 17.06.2021 (as exempted by the appellate authority for affiliation charges) but also for the remaining period, having regard to the nature of the receipts.

84. Before delving in detail into this matrix, it would be apposite to have a glance at the findings of Appellate authority.

85. The appellate authority, at para 5.4 of the impugned Order-in-Appeal (Page 27 of 31), has recorded the following finding on this issue:

"5.4 As regards Annual Registration Charges, Late Charges for Annual Registration charges, these services are not directly related to conduct of examination. As submitted by the appellant Annual Registration of schools is essential to collect details of the number of students, subjects they will take in the examinations, schools available as exam centres, geographic dispersal of students etc. and properly plan for holding the examinations across multiple centres with minimum dislocation to students, preparation and distribution of question papers with utmost secrecy and deployment of examination invigilators. I find that in terms of Circular no. 151/07/2021-GST dated 17th June 2021, GST is exempt on input services relating to admission to, or conduct of examination, such as online testing service, result publication, printing of notification for examination, admit card and questions papers etc., when provided to such Boards. Therefore, I find that the Annual registration charges, late

charges for annual registration charges are not exempt from GST. Thus, the AA has rightly confirmed the demand of GST on the said services."

86. It is necessary, at the outset, first to correct the factual premise on which pleadings proceed on this ground.

87. As is evident from the finding extracted above, no period-wise bifurcation has been made by the appellate authority in respect of annual registration charges and late charges unlike the finding on affiliation charges (para 5.3), where the appellate authority regularised GST payment on an 'as is where is' basis for the period 01.07.2017 to 17.06.2021 and confirmed liability only with effect from 18.06.2021. On registration charges and late charges, the appellate authority has confirmed the demand for the entire period, without carving out any exemption for any part of it.

88. It follows that the respondent's reply, in stating that the appellate authority "has rightly upheld the levy of GST on annual registration charges and late charges for annual registration" specifically "for the period from 18.06.2021 onwards", has inadvertently carried over the period-wise treatment applicable to affiliation charges into the finding on registration charges, where no such bifurcation exists.

89. This plea of respondent as mentioned in the reply ostensibly appears to be a drafting oversight on the part of the respondent, and the position as recorded in the impugned order is that the

demand on registration and late charges was confirmed for the entire period from July 2017 to November 2023.

90. Be that as it may, we have considered the rival contentions on this issue. For the reasons recorded below, we are in respectful agreement with the submission of the Ld. Authorized Representative for the respondent.

91. The annual registration charges as contended by the appellant are credited in the books of account under the head “annual charges” and are collected from affiliated schools annually by the council, and failure to pay these charges may result in de-affiliation. Late registration charges are levied where schools pay beyond prescribed deadlines. These are administrative and preparatory functions. Exemption entry No. 66(b)(iv) of the Exemption Notification dated 28.06.2017 is confined to services “relating to admission to or conduct of examination.” Applying the strict construction rule mandated by the Constitution Bench of the Hon’ble Apex Court in Commissioner of Customs (Import) v. Dilip Kumar & Co. (Supra, the exemption cannot be extended to administrative or preparatory charges.

92. The appellate authority after due deliberations on the nature of these charges correctly found that annual registration charges and late registration charges are preparatory and administrative in character and do not fall within the exemption entry. The fact that non-payment may lead to de-affiliation is a commercial consequence of a contractual obligation to the appellant/CISCE;

it does not transform an administrative charge into an examination-related service.

93. Accordingly, on this facet of the issue, we conclude that the appellate authority had rightly held that annual registration charges and late registration charges do not qualify for exemption under Entry 66(b)(iv) of the Exemption Notification dated 28.06.2017. The strict construction mandate in Dilip Kumar (supra) forecloses any extension of the exemption to activities that are only preparatory to, and not constitutive of, the conduct of examination. The commercial consequence of non-payment, namely de-affiliation, is a contractual matter internal to the CISCE framework and cannot alter the nature of the charge.

94. This brings us to the appellant's alternative contention that these charges should, in any event, receive the benefit of the "as is where is" regularization granted for affiliation charges for the period 01.07.2017 to 17.06.2021. This requires examination of the precise scope of Circular No. 234/28/2024-GST dated 11.10.2024, upon which both the impugned order and the appellant's contention substantially rest.

95. Paragraph 3.2 of the said Circular dated 11.10.2024 defines the activity of "affiliation" as the monitoring by educational boards or councils of whether a school possesses the requisite infrastructure, finances, faculty strength, etc., so as to be eligible for the privileges accruing under such affiliation. Paragraphs 3.3 to 3.5 thereafter record the recommendation of the GST Council,

in its 54th meeting, to clarify that such affiliation services are taxable, to exempt affiliation services rendered to government schools with effect from 10.10.2024, and material to the present controversy to regularize the GST liability on affiliation services on an "as is where is" basis for the period from 01.07.2017 to 17.06.2021.

96. A plain reading of the Circular discloses that its subject matter, throughout, is confined to affiliation services simpliciter. There is no reference, express or implied, to annual registration charges, renewal charges, or late fees for registration as falling within the ambit of the regularization. The Circular being a clarificatory instrument issued in the specific context of affiliation services, its benefit cannot be extended by inference to a distinct category of receipt merely because both arise from the same underlying regulatory relationship between the Board and its affiliated schools. An exemption or a regularization dispensation, being in the nature of a fiscal concession, must be strictly construed, and its scope cannot be enlarged by implication to categories of supply not expressly covered therein.

97. We are accordingly not inclined to accept the appellant's contention that annual registration and late charges are merely a species of affiliation charges and must consequently travel with them for every purpose, including the benefit of the "as is where is" regularization. While it may be true, for the purpose of determining taxability itself, that registration and affiliation

charges share a common character as consideration for the Board's continuing regulatory and administrative functions vis-à-vis its affiliated schools, that similarity of character cannot be pressed into service to import into the Circular a fiscal concession which the GST Council chose not to extend to it. The regularization under paragraph 3.4 of the Circular is a deliberate and specific relaxation, granted qua affiliation services alone, for a defined period; it is not a general amnesty for all receipts of a cognate nature.

98. As regards the reliance placed on Rajiv Gandhi University (supra), its precedential value has already been considered by the Hon'ble Supreme Court in Bharathi Dasan (supra) on 16.07.2026 which has already been discussed in issue no II and III above.

99. We accordingly hold that Circular No. 234/28/2024-GST is confined in its operation to affiliation services and does not extend to, or cover, annual registration charges and late charges for registration. The benefit of regularization of GST liability on an "as is where is" basis for the period 01.07.2017 to 17.06.2021 is, therefore, not available to the appellant in respect of annual registration and late charges. The finding of the appellate authority upholding the levy of GST on annual registration and late charges as an independent supply, distinct from services relating to admission of students or conduct of examinations, is affirmed. This ground raised by the appellant fails and is rejected.

100. Issue No. IV is accordingly decided in favour of the respondent, subject to the consequential findings recorded under Issue VII below.

Issue no V:

Whether Circular No. 234/28/2024 dated 11.10.2024 is a valid and binding instrument regard being had to the appellant's contentions that the said Circular has been quashed by certain Hon'ble High Courts or that Section 168 of the Act, 2017 does not confer upon the CBIC the power to interpret statutory provisions, and the Circular is to that extent ultra vires or that the Circular erroneously equates affiliation with accreditation and is for that reason inapplicable to CISCE; and whether, in any event, the demand on affiliation charges for the period 18.06.2021 to November 2023 is legally sustainable?

101. On this issue Ld. Counsel for the appellant contended that CBIC Circular No. 151/07/2021-GST and Circular No. 234/28/2024 dated 11.10.2024, to the extent they deny exemption to affiliation services, are ultra vires the Act 2017 and the Exemption Notification. It was further contended that Circular No. 234/28/2024 has been quashed by the Hon'ble Karnataka High Court and the Hon'ble Bombay High Court, and that Section 168 of the Act 2017 does not confer upon the CBIC the power to interpret statutory provisions; that power belonging exclusively to the Courts, as held by the Hon'ble Supreme Court in Keshavji Ravji & Co. v. Commissioner of Income Tax [(1990) 183 ITR 1 (SC)], so that the Circular is to that extent ultra vires. It was additionally submitted that these Circulars are contrary to

Sections 7 and 9 of the Act 2017, in that they proceed on the assumption that affiliation service would qualify as "supply" without first establishing the jurisdictional fact.

102. As against this, the Ld. Authorized representative for the respondent submitted that the Circular, issued under Section 168 of the Act 2017 for ensuring uniform implementation, continues to bind departmental officers, and that with due respect to the judgments of the Hon'ble High Courts of Karnataka and Bombay do not automatically bind authorities functioning outside their respective territorial jurisdictions. The Circular, it was submitted by the Ld. Authorized representative for the respondent merely clarifies the Department's understanding of Entry 66 Exemption Notification dated 28.06.2017 and does not create any new levy, reliance being placed on the Madurai Bench decision of the Hon'ble Madras High Court dated 10.02.2026.

103. We have examined the rival contentions of the parties The findings on this issue are as follows.

104. The CBIC Circular No. 151/07/2021-GST was issued pursuant to deliberations of the GST Council and in exercise of powers under Section 168 of the Act 2017. It specifically identifies "providing accreditation to an institution or to a professional so as to authorize them to provide their respective services" as a taxable supply. Circular No. 234/28/2024-GST dated 11.10.2024, issued following the express recommendations of the 54th Meeting of the GST Council held on 09.09.2024, directly and expressly

clarifies that affiliation services provided by educational boards to schools are taxable, and regularizes the position on an "as is where is" basis for the period 1st July 2017 to 17th June 2021.

105. The appellant's challenge to these instruments' rests on grounds that Circular No. 234/28/2024 dated 11.10.2024 has been quashed by the Hon'ble Karnataka High Court and the Hon'ble Bombay High Court and is therefore not a valid or binding instrument; that Section 168 of the Act 2017 does not confer upon the CBIC the power to interpret statutory provisions, and the Circular is to that extent ultra vires the Act 2017, reliance being placed on Keshavji Ravji & Co. (supra); and that the Circular erroneously treats affiliation as equivalent to 'accreditation', rendering it inapplicable to CISCE.

106. At the outset, we now feel it necessary to distinguish between concept of accreditation and affiliation,

Accreditation, as ordinarily understood, refers to a process of quality assessment, grading, or authorization conferred by an independent body upon an institution or professional to establish that it meets certain standards. It is a one-time or periodic stamp of quality or authorization conferred for the purpose of enabling the institution or professional to provide their own independent services.

Affiliation by appellant /CISCE on the other hand is different in character. It integrates a school into the CISCE examination system, with the school committing to follow the CISCE curriculum, present students only for CISCE examinations, and comply with CISCE's prescribed academic norms. The process of affiliation serves to evaluate whether a school possesses the requisite infrastructure, financial stability and other prerequisites to qualify for the privileges to operate under the aegis of the council. Without CISCE affiliation, a school's students cannot sit for ICSE/ISC examinations or receive CISCE certificates.

107. Therefore, we are of the view that CISCE's affiliation is different from 'accreditation' as ordinarily understood, and to that limited extent the contention of appellant is factually well-founded. This finding is, however, entirely without prejudice to the independent force of Circular No. 234/28/2024 dated 11.10.2024, which directly addresses affiliation services of educational boards by name, on the independent basis of the 54th GST Council's recommendation, without requiring any equation between affiliation and accreditation. This contention cannot, therefore, affect the validity or applicability of Circular No. 234/28/2024 dated 11.10.2024.

108. As regards the submission of the Ld. Counsel for the appellant that Section 168 of the Act 2017 does not confer interpretive power on the CBIC, drawing on Keshavji Ravji & Co. (supra). It is noted that Circular No. 234/28/2024 dated 11.10.2024 was not issued in exercise of any claimed power of statutory interpretation. It was issued to operationalize a specific

recommendation of the 54th Meeting of the GST Council.The GST Council is a constitutional body created under Article 279A of the Constitution of India, comprising representatives of the Union and the States, and its recommendations carry a distinct constitutional character and a persuasive weight considerably greater than that of a circular issued by a subordinate authority purely in exercise of statutory power under Section 168 of the Act 2017. The objection that Section 168 of the Act 2017 does not empower the CBIC to interpret statutory provisions does not, in the opinion of this Tribunal, detract from the effect of a Circular that implements a recommendation of the GST Council itself. For the foregoing reasons, this Tribunal holds that Circular No. 234/28/2024-GST dated 11.10.2024, being founded upon and giving effect to the recommendation of the 54th GST Council meeting, retains binding effect on the departmental authorities, and the Commissioner (Appeals) did not err in relying upon it while deciding the appeal. This contention of the appellant is accordingly rejected.

109. With respect to the contention that Circular No. 234/28/2024 dated 11.10.2024 has been quashed by Hon'ble Karnataka High Court and the Hon'ble Bombay High Court, we record, at the outset, our considered regard for the Hon'ble High Courts, whose decisions reflect a careful and well-reasoned view of the matter and carry considerable persuasive weight. Having bestowed our anxious consideration, with utmost respect, we find ourselves

unable to follow the said decisions, for the reasons that we have already applied the standard of binding precedents of the constitution bench of the Hon'ble Apex court in Dilip kumar case (Supra) which authoritatively holds that exemption notifications under fiscal statutes must be strictly construed, any ambiguity should be resolved in favour of the Revenue.This Tribunal, being bound by Article 141 of the Constitution of India, must give primacy to that binding standard. We may note that the taxability of affiliation services had been the subject of specific deliberation by the GST Council, a constitutional body under Article 279A of the Constitution, whose recommendations found expression in Circular No. 234/28/2024 dated 11.10.2024 read with Notification No. 08/2024-Central Tax (Rate) dated 08.10.2024, a development that further guides our approach on this aspect. Secondly, and in any event, the demand on affiliation charges for the post-June 2021 period is independently and fully sustainable on the taxability finding recorded under Issues II and III of this judgment, entirely without reliance upon the said Circular. For these reasons, this contention does not avail the appellant, on either ground.

110. It has been brought to our knowledge by the learned Counsel for the Appellant that the Petitioner/Appellant herein has separately filed W.P.(C.) No. 14532/2025 along with CM APPL. No. 59655/2025 before the Hon'ble High Court of Delhi assailing the

vires of Circular No. 151/07/2021-GST dated 17.06.2021 and Circular No. 234/28/2024-GST dated 11.10.2024 , Ld. Counsel for the appellant submitted that Vide order dated 06.10.2025, the Hon'ble High Court observed, prima facie, that the said Circulars cannot be used against the Petitioner, for raising any demands.

111. The Hon'ble High Court, however, directed learned Counsel for the Respondent to seek instructions in the matter, issued notice and listed the matter for further hearing. The matter is presently stated to be pending, with the next date of hearing being 16.11.2026.

112. The aforesaid order of the Hon'ble High Court of Delhi has received our due and respectful consideration. The mere pendency of the aforesaid writ petition, and the prima facie view expressed therein, however for the following reasons cannot be regarded as conclusively determining the issues arising for consideration in the present appeal.

113. First, the observation made by the Hon'ble High Court is expressly qualified as being "prima facie" and was rendered at an interlocutory stage of the proceedings. The writ petition has not yet culminated in a final adjudication on the validity or applicability of the said Circulars. In State of Assam v. Barak Upatyaka D.U. Karmachari Sanstha, (2009) 5 SCC 694, the Hon'ble Supreme Court has explained that an interim order which does not finally and conclusively decide an issue cannot constitute a precedent and that the reasons assigned in support of

such a non-final order, containing prima facie findings, are only tentative.

114. In the present case, therefore, the prima facie observation made by the Hon'ble High Court, while entitled to due respect, cannot be treated as a final pronouncement upon the controversy involved in the present appeal. The issues arising before this Tribunal have to be determined upon consideration of the statutory provisions, the facts on record and the applicable law.

115. It is also material that the present appeal is not being decided merely by applying or enforcing the said Circulars. The controversy has been independently examined on the touchstone of the charging provisions and the exemption contemplated under the CGST Act and the relevant notification. The prima facie observations contained in the interlocutory order of the Hon'ble High Court given the circumstances when the revenue has been asked to seek instructions, therefore, do not conclude the statutory questions which arise for determination in the present appeal.

116. Accordingly, the contentions of the Appellant with respect to challenge on the reliance of the afore-mentioned circulars by the Appellate Authority are not sustainable.

Issue No. V is accordingly decided in favour of the respondent.

<u>Issue no VI:</u>

Whether the amounts collected by the appellant, if taxable, are to be treated as inclusive of GST under Rule 35 of the Rules 2017

117. The Ld. counsel for the appellant contended that the amounts collected by the appellant, if taxable at all, should be treated as inclusive of GST under Rule 35 of the Rules 2017, and that the first appellate authority erred in rejecting this claim without adequate examination; that It is well settled law that when an amount is collected for the provision of services, the total compensation received should be treated as inclusive of tax unless tax is also paid by the customer separately. The Ld. Counsel has relied upon *Commissioner of central excise & customs, Patna Vs Advantage Media Consultant 2008 (3) TMI 59 CESTAT Kolkata*. Ld. Counsel further submitted that civil appeal against this judgement of CESTAT has been dismissed by Hon'ble Apex court.

118. As against this argument, the Ld. Authorized representative for the respondent submitted that the said rule applies only where it is established that the price charged was inclusive of GST, and that the burden of proof lies upon the supplier claiming such benefit. It was pointed out that the appellant has not produced invoices, agreements, fee notifications, accounting records, or correspondence to demonstrate that the fees collected were GST-inclusive, and that the mere absence of a separate GST column in the fee structure cannot give rise to a presumption that the consideration included GST.

Submission considered. Our findings are as below.

119. We deem it appropriate to mention Rule 35 of the Rules 2017, which is reproduced below;

Rule 35. Value of supply inclusive of integrated tax, central tax, State tax, Union territory tax. –

> *Where the value of supply is inclusive of integrated tax or, as the case may be, central tax, State tax, Union territory tax, the tax amount shall be determined in the following manner, namely, -*
>
> *Tax amount = (Value inclusive of taxes x tax rate in % of IGST or, as the case may be, CGST, SGST or UTGST) ÷ (100+ sum of tax rates, as applicable, in %)*

120. Therefore, it is clear from bare reading of Rule 35 of the Rules 2017 that where the price is expressed to be inclusive of the tax payable, the taxable value shall be determined by working back at the applicable tax fraction.

121. In the present case, the first appellate authority has observed in its order that no documentary evidence has been furnished by the appellant to substantiate its version that the fees collected by the appellant/CISCE were as inclusive of GST. The appellant has contended that it is not the case of the respondent that the appellant has received the amount of GST tax from the payee over and above the amount credited, that the transaction value is not inclusive of GST in the books.

122. On this issue we are guided by the Judgement of Hon'ble Supreme Court in Appeal (civil) 3783 of 2000, Commissioner of Central Excise, Delhi Vs Maruti Udyog Ltd., Date of Judgment: 27/02/2002 (2002 (2) SCR 99);

"5. A reading of the aforesaid Section clearly indicates that the wholesale price which a charged is deemed to be the value for the purpose of levy of excise duty, but the element of excise duty, sales tax or other taxes which is included in the wholesale price is to be excluded in arriving at the excisable value. This Section has been so construed by this Court in Asstt. Collector of Central Excise and Ors. v. Bata India Ltd., [1996] 4 SCC 563, and it is thus clear that when cum-duty price is charged, then in arriving at the excisable value of the goods the element of duty which is payable has to be excluded. The Tribunal has, therefore, rightly prceeded on the basis that the amount realised by the respondent from the sale of scrap to be regarded as a normal wholesale price and in determining the value on which excise duty is payable the element of excise duty which must be regarded as having been incorporated in the sale price, must be excluded. There is nothing to show that once the demand was raised by the Department, the respondent sought to recover the same from the purchaser of scrap. The facts indicate that after the sale transaction was completed, the purchaser was under no obligation to pay any extra amount to the seller, namely, the respondent. In such a transaction, it is the seller who takes on the obligation of paying all taxes on the goods sold and in such a case the said taxes on the goods sold are to be deducted under Section 4(4)(d)(ii) and this is precisely what has been directed by the Tribunal. There is also nothing to show that the sale price was not cum-duty. "

123. Further The Hon’ble Apex court in appeal civil appeal no 4055 of 2002 in Commissioner of Central Excise, Jaipur Vs Dugar Tetenal India Limited, Date of judgement: 07/03/2008 had reiterated its earlier dictum in Maruti Udyog (supra) and held as under;

“13. The assessee in addition to the submission that the extended period of limitation could not be invoked had contended that the selling price of the goods was the cum-duty price and they were entitled to deduct the duty element from the sale price for the purpose of determination of assessable value of the goods in terms of Section 4(4) (d) (ii) of the Act. The Tribunal accepted this plea of the assessee relying upon the decision of the Tribunal in the case of Shri Chakra Tyres Ltd (supra). The view taken in Shri Chakra Tyres Ltd (supra) was affirmed by this Court in Commissioner of Central Excise, Delhi V. Maruti Udyog Limited, 2002 (3) SCC 547. Learned counsel for the Revenue has relied upon the judgment of this Court in Asstt. Collector of Central Excise V. Bata India Limited , 1996 (4) SCC 563. This judgment was duly considered in Maruti Udyog Limited (supra). After considering the case in Bata India Limited (supra) this Court observed in para 5 as under:

"5. A reading of the aforesaid Section clearly indicates……… (Supra , Not repeated for brevity)

14. *In our view, the Tribunal has rightly remanded the case to re-determine the duty payable keeping in mind the provisions of Section 4(4) (d) (ii). 15. For the reasons stated above, we do not find any merit in either of the appeals and accordingly dismiss the same leaving the parties to bear their own costs.*

124. It is necessary to address the interpretive foundation for relying upon judicial precedents rendered under the erstwhile Central Excise and Customs regime while determining the issue of cum-tax valuation under the CGST Act, 2017. The Hon'ble Gujarat High Court, in Synergy Fertichem Pvt. Ltd. v. State of Gujarat, 2020 (33) GSTL 513, has authoritatively observed that a nascent enactment in a nebulous field of taxation is bound to encounter teething troubles, and that GST, being no exception, has "much dust to settle legislatively and judicially." The Hon'ble High Court further held that unless the context otherwise requires, the principles of interpretation evolved over decades by various Courts in the context of Excise and Customs valuation can be applied with equal force while determining transaction value in analogous situations arising under GST, such precedents carrying persuasive value in resolving GST valuation issues.

125. In the light of aforesaid principle, it would be appropriate to refer to the well-settled jurisprudence on cum-tax valuation that has evolved under the Central Excise and service tax regime. In particular, the settled principle is that where the gross amount charged does not separately disclose the tax component, the amount charged is to be regarded as inclusive of such tax. Some

principles, though evolved under the erstwhile Central Excise and Service Tax regime, are squarely traceable to the GST law by way of statutory continuity. Under the Finance Act, 1994, the cum-tax principle rested on the Section 67 read with the erstwhile Service Tax (Determination of Value) Rules, 2006, which mandated that where the gross amount charged is inclusive of service tax, the value of taxable service shall be computed by treating the gross amount as cum-tax value. Under the GST regime, the corresponding statutory mechanism is found in Section 15 CGST Act 2017 r/w Rule 35 of the CGST Rules, 2017.

126. While independently considering the issue, we also take judicial notice of the reasoning adopted by the CESTAT, Kolkata in Commissioner of Central Excise, Patna v. Advantage Media Consultant, reported at 2008 (10) S.T.R. 449 (Tri. -Kol.), to be of considerable persuasive value. In the said decision, while examining the question of valuation, it was held that where the amount realized from the recipient does not separately indicate or include the tax component, the gross amount so received is liable to be treated as the cum-tax value, and the tax liability is accordingly required to be re-quantified by treating such gross amount as inclusive of the tax payable thereon.

127. The said decision was carried out in appeal by the Revenue before the Hon'ble Supreme Court. The Hon'ble Apex Court was

pleased to condone the delay and dismissed the appeal. (*Commissioner of central excise & customs, Patna Vs Advantage Media Consultant,* 2009 (14) S.T.R.349 Supreme Court (CNR No SCIN010235232008).

128. Now adverting to the argument of the Ld. Authorized representative of the respondent, as noted hereinabove, that the burden of establishing GST-inclusiveness of the fees lay upon the appellant and stood undischarged for want of supporting invoices, agreements, fee notifications, accounting records, or correspondence, we find the said contention cannot be sustained in view of the settled position on burden of proof. In this regard we place reliance on the decision of the Hon'ble Supreme Court of India in the case of M/S. Uniworth Textiles Ltd vs Commnr. Of Central Excise, Raipur [2013 (9) SCC 753], wherein it was held that;

> *"Further, we are not convinced with the finding of the Tribunal which placed the onus of providing evidence in support of bona fide conduct, by observing that "the Appellants had not brought anything on record" to prove their claim of bona fide conduct, on the Appellant. It is a cardinal postulate of law that the burden of proving any form of mala fide lies on the shoulders of the one alleging it. This Court observed in Union of India Vs. Ashok Kumar & Ors. that "it cannot be overlooked that burden of establishing mala fides is very heavy on the person who alleges it. The allegations of mala fides are often more easily made than proved, and the very seriousness of such*

> *allegations demand proof of a high order of credibility."*

129. It is thus evident from the aforesaid discussion and the guidance rendered by the Hon'ble Constitutional Courts that where tax has not been collected separately, the gross amount received must be treated as the value of taxable service inclusive of tax, for the purpose of quantifying the tax liability.

130. To summarize, this Tribunal has duly considered the rival contentions on the applicability of Rule 35 of the Rules, 2017, and has examined the settled cum-duty/cum-tax jurisprudence developed under the erstwhile Central Excise and Service Tax regime, which applies with equal force to valuation under the Act, 2017. It is found that the burden placed upon the Appellant to independently establish GST inclusiveness of the amounts collected stands discharged in law, once it is demonstrated that no tax was separately collected from the recipients. It is thus evident from the aforesaid discussion and the guidance rendered by the Hon'ble Constitutional Courts that where tax has not been collected separately, the gross amount received must be treated as the value of taxable service inclusive of tax, for the purpose of quantifying the tax liability.

131. In view of the dictum of the Hon'ble Apex Court, read with Rule 35 of the Rules, 2017, the Appellant is entitled to the benefit of

cum-tax valuation. The amounts collected by the Appellant are accordingly held to be inclusive of GST. In view of the foregoing discussion, this issue is decided in favour of the appellant.

132. Issue No. VI is thus decided in favour of the appellant.

Issue no VII:

Whether the conditions precedent for invoking Section 74 of the Act 2017 namely fraud, willful misstatement, or suppression of facts with intent to evade tax are satisfied in the present case; and whether CBIC Instruction No. 5/2023-GST dated 13.12.2023, which stipulates that Section 74(1) cannot be invoked merely on non-payment without positive material evidence of fraud or wilful misstatement or suppression of facts to evade tax, has been complied with in the present case?

133. On this issue, the Ld. Counsel for the Appellant, with full vehemence at his command, argued that the appellant entertained a bona fide belief that its activities were exempt, that the issue is purely interpretational, and that there is no suppression of facts, wilful misstatement, or intent to evade tax, all of which are prerequisites for invoking Section 74 of the Act 2017. It was submitted that the office of the respondent had itself called for details of the appellant's charges vide letter dated 01.03.2023; that the appellant duly furnished details vide its letters dated 15.03.2023 and 27.03.2023, after which the respondent raised a demand letter dated 08.05.2023, demonstrating that the Respondent had full actual knowledge of the appellant's receipts and activities well before any investigation, thereby negating any allegation of suppression of facts. It was further submitted that

CBIC Instruction No. 5/2023-GST dated 13.12.2023 itself clarifies that Section 74(1) of the Act 2017 cannot be invoked merely on account of non-payment without specific material evidence of fraud or wilful misstatement or suppression of facts to evade tax, and no such evidence exists in the present case. It was also submitted that where the foundation for Section 74 of the Act 2017 fails, penalties under Section 122(2)(b) of the Act 2017 and interest under Section 50 of the Act 2017 for that period cannot survive.

134. The Ld. Authorized Representative for the Respondent, while opposing the above submissions, strenuously argued that the taxable supplies in question were never disclosed as taxable in the GST returns filed by the appellant, and that GST was not paid despite the statutory obligation of self-assessment. It was submitted that the liability came to the notice of the respondent only through investigation, and material facts were therefore suppressed; that the mere existence of books of account or disclosures on the appellant's website does not amount to statutory disclosure, and no advance ruling or clarification was sought; and that the pendency of similar disputes under the erstwhile Service Tax regime, far from supporting bona fides, put the appellant on clear notice that the Respondent regarded such receipts as taxable, and cannot excuse non-compliance under the GST regime.

135. We have carefully considered the rival submissions advanced by the Ld. Counsel for the Appellant and the Ld. Authorized Representative for the Respondent. For the reasons recorded hereinbelow, we find that the conditions precedent for invocation of Section 74(1) of the Act 2017 are not satisfied, and this issue is answered in favour of the Appellant.

136. Section 74(1) of the Act 2017 reads as below:

> "*Section 74. Determination of tax [, pertaining to the period up to Financial Year 2023-24,] not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts. – Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty equivalent to the tax specified in the notice.*"

137. The provision empowers the proper officer to issue a show cause notice and raise a demand only where tax has not been paid or short paid by reason of fraud, wilful misstatement, or suppression of facts to evade tax; it is not triggered by mere non-payment

simpliciter. The element of fraud, wilful misstatement, or suppression with intent to evade tax, must be affirmatively established. It is well settled that mens rea need not be proved by direct evidence alone and may be inferred from the surrounding and intervening facts and circumstances of the case; but it must be inferred from something and cannot be presumed merely because a demand is ultimately found sustainable on merits.

138. The binding standard on this point is laid down by the Hon'ble Supreme Court in Pushpam Pharmaceuticals Company v. Collector of Central Excise, Bombay, 1995 (3) TMI 100 (SC), also reported at (1995) 3 SCC 462, and in Continental Foundation Joint Venture Holding, Nathpa v. Commissioner of Central Excise, Chandigarh-I, 2007 (8) TMI 11 (SC), also reported at (2007) 10 SCC 337. The relevant extracts of these decisions are reproduced below.

139. **In Pushpam Pharmaceuticals Company v. Collector of Central Excise, Bombay, 1995 (3) TMI 100 (SC), it was laid down that:**

> "*4. Section 11A empowers the Department to re-open proceedings if the levy has been short-levied or not levied within six months from the relevant date. But the proviso carves out an exception and permits the authority to exercise this power within five years from the relevant date in the circumstances mentioned in the proviso, one of it being suppression of facts. The meaning of word both in law and even otherwise is well known. In normal understanding it is not different that what is explained in various*

dictionaries unless of course the context in which it has been used indicates otherwise. A perusal of the proviso indicates that it has been used in company of such strong words as fraud, collusion or wilful default. In fact it is the mildest expression used in the proviso. Yet the surroundings in which it has been used it has to be construed strictly. It does not mean any omission. The act must be deliberate. In taxation, it can have only one meaning that the correct information was not disclosed deliberately to escape from payment of duty. Where facts are known to both the parties the omission by one to do what he might have done and not that he must have done, does not render it suppression."

140. **In Continental Foundation Joint Venture Holding, Nathpa v. Commissioner of Central Excise, Chandigarh-I, 2007 (8) TMI 11 (SC), it was held that;**

"9. We are not really concerned with the other issues as, according to us, on the challenge to the extended period of limitation ground alone the appellants are bound to succeed. Section 11A of the Act postulates suppression and, therefore, involves in essence mens rea.

10. *The expression 'suppression' has been used in the proviso to Section 11A of the Act accompanied by very strong words as 'fraud' or 'collusion' and, therefore, has to be construed strictly. Mere omission to give correct information is not suppression of facts unless it was deliberate to stop the payment of duty. Suppression means failure to disclose full information with the intent to evade payment of duty. When the facts are known to both the parties, omission by one party to do what he might have done would not render it suppression. When the Revenue invokes the extended*

period of limitation under Section 11A the burden is cast upon it to prove suppression of fact. An incorrect statement cannot be equated with a wilful misstatement. The latter implies making of an incorrect statement with the knowledge that the statement was not correct.

11. *As far as fraud and collusion are concerned, it is evident that the intent to evade duty is built into these very words. So far as misstatement or suppression of facts are concerned, they are clearly qualified by the word 'wilful', preceding the words 'mis-statement or suppression of facts' which means with intent to evade duty. The next set of words 'contravention of any of the provisions of this Act or Rules' are again qualified by the immediately following words 'with intent to evade payment of duty'. Therefore, there cannot be suppression or mis-statement of fact, which is not wilful and yet constitute a permissible ground for the purpose of the proviso to Section 11A. Mis-statement of fact must be wilful.*

12. *That being so, the adjudicating authorities were not justified in raising the demand and CEGAT was not justified in dismissing the appeals.*

13. *On the ground of adjudication beyond the normal period of limitation and non-availability of the extended period of limitation, the appeals are allowed. No costs."*

141. The above standard has recently been reaffirmed by the Hon'ble Supreme Court in Lipi Boilers Ltd. v. Commissioner of Central Excise, Aurangabad, 2025 INSC 1297, which, following Pahwa Chemicals (P) Ltd. v. Commissioner of Central Excise, (2009) 4 SCC 658, and reiterating the dicta in Pushpam Pharmaceuticals and Continental Foundation Joint Venture Holding extracted above, held that extended limitation stands wrongly invoked

where the Department was independently possessed of the relevant facts, and that mere availability of material with the Department, without a deliberate and positive act of concealment, does not satisfy the threshold for invoking the extended period.

142. Applying the above principles to the present case, the Respondent has pressed two distinct grounds to sustain invocation of Section 74(1) of the Act 2017: first, that the prior Service Tax litigation on an identical question, coupled with a fourteen-month delay in obtaining GST registration, establishes deliberate evasion; and second, that the liability came to light only through investigation under Section 67 of the Act 2017. Each of these grounds is examined separately.

143. As regards the first ground, we find that the Service Tax regime which preceded the GST regime contained, for all material purposes, an identical exemption entry for educational services under the Negative List in Section 66D of the Finance Act, 1994, corresponding to Entry 66(b)(iv) of the Exemption Notification dated 28.06.2017 under the Act 2017. The service tax authorities also issued notices and raised demands against the appellant for the period 2012 to 2017 also on the same lines. The appellant was contesting, and not conceding, its liability in that litigation. The mere pendency of a genuinely contested legal question on an identical statutory scheme does not, ipso facto permit an inference that the appellant made a calculated decision to evade tax under the successor enactment; it is equally, and more naturally,

consistent with a genuinely and honestly held, if ultimately mistaken, belief that the exemption continued to apply.

144. This view is fortified by the fact that the GST Council, at its 54th Meeting held on 09.09.2024, found it necessary to regularize the levy on affiliation services of educational boards on an "as is where is" basis for the period 01.07.2017 to 17.06.2021 given effect through Circular No. 234/28/2024 dated 11.10.2024. This is a contemporaneous, Government-level acknowledgment that the taxability of such receipts was an area of genuine, sector-wide interpretational uncertainty. It would be incongruous to hold, on the one hand, that the levy required regularization on account of genuine market-wide ambiguity, and, on the other, that this appellant alone possessed a clear and fraudulent intent to evade a liability the Government itself considered debatable enough to warrant regularization. In fact, the appellate authority in the impugned order has while granting the benefit of circular no 234/28/2024 dated 11/10/2024 has mentioned that the appellant was in the instant case under Bonafide belief that the affiliation services provided by them were exempted under Entry No. 66 of Notification No. 12/2017-CT(R) dated 28.06.2017 and the appellant neither collected nor paid GST on the affiliation services. After going through the impugned order, it is beyond comprehension that when the appellate authority itself had given observation that appellant was under Bonafide belief that the affiliation services provided by them were exempted under

aforementioned notification, how the appellate authority had upheld the invocation of extended period under section 74 of the Act 2017.

145. The delay of about fourteen months in obtaining registration is a distinct statutory contravention under Section 22 read with Section 25 of the Act 2017, carrying its own consequences, but is insufficient by itself to establish suppression with intent to evade tax, absent independent material demonstrating that the delay was occasioned by deliberate concealment rather than a bona fide, if erroneous, belief. No such independent material has been placed on record. The appellant did register in September 2018, on the advice of its Chartered Accountant, and thereafter conducted itself on the footing that part of its activities was taxable, a conduct that is not ordinarily associated with a calculated design to evade tax, which is typically accompanied by concealment or manipulation of records, neither alleged nor demonstrated in the present case.

146. As regards the second ground, the appellant has contended tat the record shows that the respondent's own letter dated 01.03.2023 called for details of the charges collected by the appellant; that the appellant furnished item-wise particulars vide its letters dated 15.03.2023 and 27.03.2023; and that the respondent thereafter raised a demand letter dated 08.05.2023 on the strength of that information all several months prior to the inspection conducted on 05.12.2023. This establishes that the respondent was in

possession of specific, affirmative knowledge of the nature, quantum, and character of the appellant's receipts well before the formal investigation commenced. This is squarely covered by the dictum in Pushpam Pharmaceuticals and Continental Foundation Joint Venture Holding (Supra) where facts are known to the Department, mere omission or failure to self-assess does not amount to suppression.

147. The relevant CBIC Instruction No. 5/2023-GST dated 13.12.2023, reads as below;

> *"3.3 From the perusal of wording of section 74(1) of CGST Act, it is evident that section 74(1) can be invoked only in cases where there is a fraud or wilful mis- statement or suppression of facts to evade tax on the part of the said taxpayer. Section 74(1) cannot be invoked merely on account of non-payment of GST, without specific element of fraud or wilful mis-statement or suppression of facts to evade tax. Therefore, only in the cases where the investigation indicates that there is material evidence of fraud or wilful misstatement or suppression of fact to evade tax on the part of the taxpayer, provisions of section 74(1) of CGST Act may be invoked for issuance of show cause notice, and such evidence should also be made a part of the show cause notice."*

148. Though these instructions are administrative in nature to field formations and not binding on this Tribunal in its judicial function, correctly restates the standard laid down by the Hon'ble Supreme Court, namely, that Section 74(1) of the Act 2017 cannot be invoked on the mere fact of non-payment without

positive material evidence of fraud, wilful misstatement, or suppression. The material relied upon by the respondent i.e. belated registration and continued non-filing of returns for over fourteen months does not, without more, constitute the positive material evidence contemplated by the Instruction and the Supreme Court's standard.

149. The issue is no longer res integra. On the issue of invocation of extended period of limitation, the Hon'ble Apex Court in Easland Combines Coimbatore vs Collector of Central Excise Coimbatore AIR 2003 Supreme Court 843 ;2003 (3) SCC 410, 2003 had laid down that;

> *"It is settled laws that for invoking the extended period of limitation duty should not have been paid, short levied or short paid or erroneously refunded because of either fraud, collusion, wilful misstatement, suppression of fact or contravention of any provision or rules. This Court has held that these ingredients postulate a positive act and, therefore, mere failure to pay duty and/or take out a licence which is not due to any fraud, collusion or wilful misstatement or suppression of fact or contravention of any provision is not sufficient to attract the extended period of limitation."*

150. Further, The Hon'ble Apex Court In Additional Commissioner, Grade 2 & Anr. v. M/s Safecon Life Science Private Limited, SLP (C) No. 23993 of 2026, order dated 17.07.2026 refused to entertain SLP Against this Allahabad high court order holding that no grounds interfere. The Hon'ble Allahabad High Court in

M/S Safecon life science Private Limited v. Additional Commissioner Grade 2 and Another, Writ Tax No. 389 of 2023, decided on 09.09.2025 (Neutral Citation No. 2025: AHC:158800) had held that proceedings under Section 74 cannot be sustained in the absence of a finding of fraud, wilful misstatement, or suppression of fact. The Hon'ble High Court observed as under:

> *"GST regime has been brought by the Central Government for ease of business in the country, but the revenue officers are bend upon to act against the very theme/ intend of it. When it was noticed by the Government that under the garb of Section 74 of the Act various dealers are being harassed, issued a circular dated 13.12.2023 where it has specifically been stated that proceedings under section 74 of the Act can be initiated if there is a fraud or willful misstatement or suppression of fact to evade payment of tax and not otherwise."*

151. The Hon'ble High Court in M/s Safecon Lifescience (Supra) further invoked the analogous provision under Section 11-A of the Central Excise Act, 1944, and the Apex Court's exposition in Continental Foundation Joint Venture Holding, Nathpa, H.P. v. Commissioner of Central Excise, Chandigarh-I, (2007) 10 SCC 337:

> *"Suppression means failure to disclose full information with the intent to evade payment of duty… An incorrect statement cannot be equated with a willful misstatement. The latter implies making of an incorrect statement with the knowledge that the*

statement was not correct... Mis-statement of fact must be wilful."

152. Applying the above, the Hon'ble Allahabad High Court in M/s Safecon Lifescience (Supra) held that since the authorities had recorded no findings of fraud, wilful misstatement, or suppression, initiation of proceedings under Section 74 was unjustified, and accordingly quashed the impugned orders.

153. The issue of extended period of limitation on the law point analogous to the present case recently fell for consideration before the Hon'ble Supreme Court in Audi Automobiles & Ors. v. Commissioner of Central Excise and Service Tax, Indore, Civil Appeal Nos. 10504-10506 of 2017, **decided on 13.08.2026**. In that case, the Department sought to invoke the extended period of limitation on the ground that the assessee had not included a component of value that was otherwise known to the Department from its own records. In other words, the issue raised in the above cases is in a narrow compass as to whether the extended period of limitation under the proviso to Section 11A is available to the Central Excise and Service Tax Department. Rejecting this contention, the Hon'ble Supreme Court held as follows:

13. However, the issue also is with respect to the penalty that can be levied based on the extended limitation period under the proviso to Section 11A of the Act. Reliance can be usefully placed on the decisions in Larsen & Toubro Ltd. v. CCE [(2007) 9 SCC 617 - 2007-VIL-06-SC-CE], Continental Foundation Joint Venture Holding v. CCE [(2007) 10

SCC 337 - 2007-VIL-40-SC-CE], CCE v. Kolety Gum Industries [(2018) 12 SCC 245 - 2016-VIL-71-SC-CE].

154. After discussing in brief, the case laws, the Hon'ble Apex court laid down that;

14………...

15………...

"16. More importantly, for our purpose, it was held that 'when the facts are known to both the parties, omission by one party to do what he might have done would not render its suppression'. In the instant case, we already noticed that the manufacturer cleared the chassis at 110% of its cost of manufacture, which was known to the Department. Hence, if 10% was not added when computing the duty at the time of clearance by the job worker, the department ought to have taken immediate action under sub-section (1). The proviso cannot be invoked to extend the period of limitation."

The ratio of the above dictum applies to the present case under consideration before this Tribunal.

155. Cumulatively, therefore, the ingredients of fraud, wilful misstatement, or suppression of facts with intent to evade tax, required for invocation of Section 74(1) of the Act 2017, stand unestablished for the period July 2017 to August 2018. The extended period of five years under Section 74(1) is accordingly not available to the respondent for that period. The demand pertaining to the period July 2017 to August 2018, comprising

annual registration charges and late registration charges aggregating ₹1,29,60,720/- (Rupees One Crore Twenty-Nine Lakh Sixty Thousand Seven Hundred and Twenty only), is accordingly set aside in its entirety, both for want of valid invocation of Section 74(1) of the Act 2017 and as being barred by limitation.

156. Accordingly, Issue VII is answered in favour of the Appellant. The invocation of Section 74(1) of the Act 2017 for the period July 2017 to August 2018 is held to be bad in law, and the demand for that period, together with all consequential interest and penalty, stands set aside.

<u>Issue No. VIII:</u>

Whether levy of interest under Section 50 and penalties under Section 122 of the Act 2017 are sustainable?

157. Since we have held, under Issue VII above, that Section 74(1) of the Act 2017 was not validly invoked for the period July 2017 to August 2018, and that the demand for that period, comprising annual registration charges and late registration charges aggregating ₹1,29,60,720/-, is in any event barred by limitation, no penalty under Section 122(2)(b) read with Section 74 of the Act 2017 and no interest under Section 50 of the Act 2017 can survive in respect of the said period. Penalty and interest are ancillary to a valid tax demand; where the demand itself has been set aside for want of valid invocation of Section 74(1) of the

Act 2017 and on account of limitation, the corresponding penalty and interest cannot be independently sustained.

158. Penalty and interest cannot be levied in respect of affiliation fee and affiliation processing/form charges for the period 01.07.2017 to 17.06.2021, by virtue of the "as is where is" regularization effected through Circular No. 234/28/2024 dated 11.10.2024, as discussed in Issue VII above. Regularization extinguishes not merely the underlying tax demand but all ancillary liabilities of penalty and interest inseparable therefrom; a penalty or interest charge cannot survive independently once the underlying tax demand has itself been regularized and rendered irrecoverable by a substantive policy measure of the government.

159. Since the demand on annual registration charges, late registration charges, and the sustained portion of affiliation fee/processing charges for the period September 2018 to November 2023 has been upheld under Issues II, III and IV above, the penalty under Section 122(2)(a) read with Section 73 of the Act 2017 for that tax demand on the charges under these issues is upheld. The general penalty of ₹25,000/- under Section 125 of the Act 2017, being referable to the appellant's overall failure to correctly self-assess its tax liability on the supplies held taxable, is also sustained.

160. Interest under Section 50 of the Act 2017 is payable only on the sums confirmed, from the respective dates of default, calculated in accordance with the Act 2017.

Issue No. VIII is accordingly decided partly in favour of the appellant and partly in favour of the respondent as discussed in pre paras.

FINAL ORDER

161. Considering the detailed analysis and findings recorded here in above, we hold and modify the impugned order as below;

(a) The invocation of section 74 of the Act 2017 for the extended period, July 2017 to August 2018, is set aside. Consequently, the demand for the period, July 2017 to August 2018 is set aside.

(b) The demand for affiliation fees, affiliation form processing / form charges for the period 18.06.2021 to November 2023, as sustained in impugned order is upheld subject to order in sub -para (d) below.

(c) The demand for registration charges and late charges for annual registration charges for the period September 2018 to November 2023 as sustained in impugned order for this period is upheld subject to order in next sub -para (d).

(d) The amount collected by the appellant is to be treated as inclusive of tax. The benefit of Cum- tax value is allowed.

(e) No penalty is leviable in respect to the period w.e.f July 2017 to August 2018. No penalty is leviable in respect of affiliation fees, affiliation form processing / form charges for the regularized period of July 2017 to June 2021. The penalty imposed under section 122(2)(a) of the Act 2017 in the impugned order is modified to the extent of penalty leviable on the tax demands as sustained herein above. The general penalty of ₹25,000 under section 125 of the Act 2017 is also upheld.

(f) Interest under section 50 of the Act 2017 is payable on the sums confirmed from the respective dates of default as discussed here in above, calculated in accordance with the provisions of the Act 2017.

(g) The tax liability along with consequential interest and penalty shall be recomputed by the respondent after complying with the findings of this bench as enumerated here -in -above.

162. No orders as to cost.

Appeal stands disposed off.

(Sanjay Kumar Aggarwal)

(Rajiv Kapoor)

GST Appellate Tribunal, Delhi State Bench, New Delhi.

Announced in open Court on 31/08/2026.