CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
HYDERABAD

REGIONAL BENCH - COURT NO. – I

Service Tax Appeal No. 30308 of 2024
(Arising out of **Order-in-Original** No.HYD-EXCUS-004-COM-033-2023-24 dated 01.03.2024 passed by Commissioner of Central Tax, Hyderabad)

M/s Unified Council Educational Services Pvt Ltd., .. **APPELLANT**
H.No. 16-11-16/B,
Saleem Nagar,
Malakpet,
Hyderabad,
Telangana – 500 036.

VERSUS

Commissioner of Central Tax Rangareddy - GST .. **RESPONDENT**
GST Bhavan,
Hyderabad,
Telangana – 500 081.

APPEARANCE:
Shri Venkat Prasad, Chartered Accountant for the Appellant.
Shri K. Sreenivasa Reddy, Authorized Representative for the Respondent.

CORAM: HON'BLE Mr. A.K. JYOTISHI, MEMBER (TECHNICAL)
HON'BLE Mr. ANGAD PRASAD, MEMBER (JUDICIAL)

FINAL ORDER No. A/30430/2026

Date of Hearing: 21.07.2026
Date of Decision: 31.07.2026

[ORDER PER: ANGAD PRASAD]

The present appeal has been filed by M/s Unified Council Educational Services Pvt Ltd., (hereinafter referred to as appellant) against the Order-in-Original No. HYD-EXCUS-004-COM-033-2023-24 dated 01.03.2024 passed by the Principle Commissioner, whereby, Service Tax amounting to Rs. 1,94,06,540/- along with interest under Section 75 of the Finance Act, 1994 has been confirmed for the period April, 2014 – June, 2017 by invoking the extended period of limitation. Penalty equivalent to the tax amount has also been imposed under Section 78 along with penalty under Section 77 upon the appellant and penalty upon its director.

2. The fact, in brief, is that the appellant is engaged in organizing various National Level Talent Search Examinations and Olympiad such as National Level Science Talent Search Examinations (NLSTSE), Unified Cyber Olympiad (UCO), Unified International English Olympiad (UIEO) and similar examinations for school students throughout the Country. The appellant prepares question papers, supplies OMR sheets to schools, evaluates answer sheets and declares results after receiving participation details from schools. According to the appellant, these activities are undertaken for educational institutions and constitute services relating to the conduct of examinations, which are exempt under Entry No. 9(b) of Notification No. 25/2012-ST dated 20.06.2012.

3. Pursuant to investigation conducted by the Department, a Show Cause Notice dated 29.09.2020 came to be issued proposing recovery of Service Tax on the ground that the examinations conducted by the appellant were optional talent search examinations, not forming part of the prescribed curriculum of schools and therefore not covered under the exemption notification. The notice also proposed invocation of the extended period and imposition of penalties. The Adjudicating Authority confirmed the demand substantially through the impugned Order-in-Original, giving rise to the present appeal.

4. Learned Counsel appearing for the appellant submits that the Adjudicating Authority has proceeded on a fundamentally erroneous interpretation of Entry No. 9(b) of Notification No. 25/2012-ST. It is argued that the notification merely requires that the services should be provided to an educational institution, by way of services relating to admission, or conduct of examinations by such institution. According to the appellant, neither the notification not the definition of "educational institution"

prescribes that every examination should necessarily form part of the prescribed curriculum or should be a mandatory Board examination.

5. Learned Counsel further submits that the recipient of service is the school itself. The schools identify participating students, collect examination fees, deduct tax at source wherever applicable, forward students particulars, conduct examinations in their premises, receive question papers and OMR sheets from the appellant and thereafter forward the answer sheets for evaluation. Thus, the schools are not acting merely as intermediaries but are the recipients of examination-related services. The Adjudicating Authority, according to the appellant, committed a serious error in treating individual students as recipients of service.

6. It is further argued that the expression "services relating to conduct of examination" is of wide amplitude and includes every activity integrally connected with conducting examinations, including preparation of question papers, printing, supply of examination material, evaluation of answer scripts and declaration of results etc. Once these services are rendered to an educational institution, the exemption cannot be denied by importing an additional condition that such examination should necessarily be prescribed under the school curriculum or mandatory Board Examination.

7. Learned Counsel relies upon the judgment of Hon'ble Gujarat High Court in Education Initiatives Pvt Ltd., Vs Union of India, reported in 2022 (63) GSTL 45 (Guj)], wherein, High Court held that the examination-related services rendered to schools qualify for exemption under the very same notification. It is submitted that the Special Leave Petition filed by the Revenue against the said judgment has been dismissed by the Hon'ble Supreme Court and, therefore, the ratio laid down therein has attained finality. Reliance is also placed upon decision of the Hon'ble Gujarat High

Court in Sahitya Mudranalaya Vs Additional Director General [2021 46 GSTL 245 Guj], wherein, the expression "Education" and examination-related activities has been interpreted broadly.

8. On the issue of limitation, Learned Counsel submits that the dispute is purely interpretational. The appellant had maintained proper books of account, disclosed all recipients in its financial statements and had responded to every query raised during investigation. There was neither suppression of facts nor any willful mis-statement with intent to evade payment of tax. Consequently, invocation of the extended period under the proviso of Section 73(1) is wholly not sustainable. In this regard Learned Counsel relied on the following decisions:

(i) International Merchandising Company, LLC Vs. Commissioner of Service Tax, New Delhi [2022 (67) G.S.T.L. 129 (S.C.)]

(ii) Social Media India Ltd., Vs Commissioner of Central Excise and Service Tax [2023 (6) TMI 466 – CESTAT Hyderabad]

(iii) Pushpam Pharmaceuticals Company Vs Collector of Central Excise, Bombay [1995 (78) E.L.T. 401 (S.C.)]

(iv) Padmini Products Vs Collector of Central Excise [1989 (43) E.L.T. 195 (S.C.)]

(v) Jaiprakash Industries Ltd., Vs Commissioner of Central Excise [2002 (146) ELT 481 (SC)]

(vi) Pr. Commissioner of Service Tax Vs Shree Chanakya Education Society [2018 (362) E.L.T. 741 (Bom.)]

(vii) P. Siva Prasad Vs Commissioner of Central Excise, Customs & Service Tax, Hyderabad – III [2019 (27) G.S.T.L. 233 (Tri. – Hyd.)]

(viii) Uniworth Textiles Ltd., Vs Commissioner of Central Excise, Raipur [2013 (288) E.L.T. 161 (S.C.)]

9. Learned Authorized Representative reiterates the findings recorded in the impugned order. It is submitted that the examinations conducted by the appellants are optional talent search examinations, not forming part of the prescribed curriculum or Board Examinations. According to the Department,

the services are ultimately rendered to individual students and not to educational institutions. It is further argued that the judgment in Educational Initiatives Pvt Ltd., supra, is distinguishable on facts, as the ASSET examinations involved therein formed part of the internal assessment of schools, whereas the appellant's examinations do not.

10. We have carefully considered the rival submissions, examined the records of the case.

11. The principle issue requiring determination is whether the services rendered by appellant are covered under Entry No 9(b) of Notification No. 25/2012-ST as "services provided to an educational institution by way of services relating to admission to, or conduct of examination by such institution", and whether the Adjudicating Authority was justified in denying the exemption by importing the condition that the examinations should necessarily form part of the prescribed curriculum. Entry No. 9 of the Notification as follow:

"9. Services provided,

(a) by an educational institution to its students, faculty and staff;

(b) to an educational institution, by way of,

i) transportation of students, faculty and staff;

ii) catering, including any mid-day meals scheme sponsored by the Government;

iii) security or cleaning or house-keeping services performed in such educational institution;

iv) services relating to admission to, or conduct of examination by, such institution;"

12. The controversy essentially turns upon the interpretation of Entry No. 9(b) of the Mega exemption notification and therefore, the issue is one of the statutory interpretations. Entry No. 9(b) of Notification No. 25/2012-ST exempts services provided to an educational institute by way of services

relating to admission to, or conduct of examination by, such institution. A plain reading of the notification shows that the legislature has consciously employed the expression "services relating to conduct of examination" and not narrower expression "services relating to conduct of curriculum examinations" or "Board Examinations". It is a settled principle of interpretation that where the language of the notification is plain and unambiguous, neither Department nor the Tribunal can add words which the legislature has consciously omitted.

13. The Adjudicating Authority has denied the exemption primarily on the ground that the Olympiad and talent search examinations conducted by the appellant do not form part of the prescribed curriculum of CBSE or State Boards and are optional in nature. In our considered opinion, this reasoning proceeds on an incorrect understanding of the exemption entry. The notification nowhere stipulates that only examinations forming part of the prescribed curriculum or recognised Board Examinations would qualify for exemption. Importing such an additional condition into the notification amounts to judicial legislation, which is not permissible.

14. The words "relating to" occurring in the notification are of wide amplitude and have consistently been interpreted by Courts to include all activities having a direct and proximate nexus with the principal activity. Preparation of question papers, printing and supply of examination material, OMR sheets, evaluation of answer scripts, tabulation of marks and declaration of results are all integral in components of the process of conducting an examination. Therefore, once these services are rendered to an educational institution for conducting examinations, they fall squarely within the ambit of Entry No. 9(b).

15. The next question requiring consideration is as to who is the recipient of service. The Adjudicating Authority has proceeded on the assumption that the appellant renders services directly to individual students and that the schools merely act as facilitators. We are unable to subscribe to this view.

16. The material placed on record demonstrates that the schools identify the participating students, collect examination fees, forward the list of students to the appellant, received question papers and OMR sheets, conduct the examinations within their premises, supervise the examination process and thereafter forward answer sheets to the appellant for evaluation. The contractual relationship for conduct of examinations is thus between the appellant and the schools. Merely because the benefit of such examination ultimately accrues to the students cannot alter the identity of the recipient of the service. In taxation law, the recipient of service is determined by the contractual and commercial relationship and not merely by identifying the ultimate beneficiary.

17. The findings of the Adjudicating Authority that only a few students participate in the examinations and therefore, the services are rendered to students instead of schools in equally misconceived. Numerous educational services, such as optional coaching programmes, extracurricular activities, Olympiads seminars and competitive examinations, may be availed only by interested students. The optional nature of participation does not alter the identity of the recipient of service where the educational institution itself engages the service provider for conducting such examinations.

18. Much emphasis has been placed in the impugned order on the fact that the examinations conducted by the appellant are not mandatory examinations prescribed by the Boards. We are unable to hold that this circumstance is decisive. The exemption entry speaks of services relating to

conduct of examination and not of examinations conducted pursuant to statutory mandate. In modern educational systems, institutions conduct several assessments, aptitude tests, Olympiads, talent search examinations and internal evaluations to asses and improve academic performance of their students as also to evaluate the skill or knowledge gap of students. This is also undertaken by students to see the status of their students vis-a-vis students of other schools undertaken similar examinations. Such examinations are undoubtedly connected with the educational process and cannot be excluded merely because they are not statutory Board Examinations.

19. The appellant has relied upon the judgment of the Hon'ble Gujarat High Court in Education Initiatives Pvt Ltd., supra, Hon'ble High Court interpreted the very same exemption notification and held that examination-related services rendered to schools were entitled to exemption. The Revenue carried the matter before the Hon'ble Supreme Court by filing a Special Leave Petition, which admittedly came to be dismissed. The relevant paragraphs of the aforesaid judgment are reproduced here in below for ready reference:

> "15. Having heard the learned counsel appearing for the parties and having gone through the materials on record, the only question that falls for our consideration is, whether the supply of services as detailed by the writ-applicant can be treated as services to an educational institution relating to conduct of examination by such institution so as to get covered under Entry Serial No.66 of the Notification No.12/2017-Central Tax (Rate) dated 28.06.2017 as amended by the Notification No.02/2018- Central Tax (Rate) dated 25.01.2018.
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> 16. We find that the said notification also provides the definition of the term 'educational institution' which reads as follows:
>
> > "educational institution" means an institution providing services by way of,--
> >
> > (i) pre-school education and education up to higher secondary school or equivalent;
> >
> > (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
> >
> > (iii) education as a part of an approved vocational education course;"

17. The term 'education' has not been defined. The Supreme Court, in the case of Sole Trustee, Loka Shikshana Trust vs. CIT, (1976) 1 SCC 254 : AIR 1976 SC 10, has explained the term 'education' as a process of training and developing knowledge, skill, mind and character of students by formal schooling.

18. We are of the view that the word 'education' cannot be given a natural meaning by restricting it to the actual imparting of education to the students but should be given a wider meaning which would take within its sweep all the matters relating to imparting and controlling education. Examination is an essential component of education as it is one of the major means to assess and evaluate the skills of a candidate and the knowledge, be it a school test, university examination, professional entrance examination or any other examination. As held by the Supreme Court, the examination is considered as a common tool around which the entire education system revolves. In State of Tamil Nadu vs. K.Shyam Sunder (2011) 8 SCC 737, the Supreme Court held thus:

> "21. There has been a campaign that right to education under Article 21-A of our Constitution be read in conformity with Articles 14 and 15 of the Constitution and there must be no discrimination in quality of education. Thus, a common syllabus and a common curriculum is required. The right of a child should not be restricted only to free and compulsory education, but should be extended to have quality education without any discrimination on the ground of its economic, social and cultural background."

19. Thus, the Supreme Court, in the above decisions, has held that:

- the expression 'education' is of wide import and includes all matters relating to imparting and controlling education;

- the examination is always considered as one of the major means to assess and evaluate candidate's skills and knowledge be it a school test, university examination, professional entrance examination or any other examination.

- the candidate's fitness for his/her further assignment whether in studies or employment is, therefore, judged on the basis of his/her performance in the examination. It is for this reason, the examination is considered as a common tool around which the entire education system revolves.

- For the purpose of bringing the right to education under Article 21 of the Constitution in conformity with the Articles 14 and 15 respectively, there must be no discrimination in the quality of education, which requires a common syllabus and a common curriculum.

20. The learned senior counsel appearing for the writ-applicant is justified in submitting that the appellate authority misdirected itself while formulating the question, whether the ASSET could be said to be conducted by the schools or otherwise without going into the question whether the ASSET is 'examination' or 'assessment'.

21. At this stage, we deem fit to look into the line of reasoning assigned by the Gujarat Authority for Advance Ruling. However, before we quote the relevant observations, we must take notice of the fact as to what did the Gujarat Authority for Advance Ruling look into. We quote the relevant observations thus:

SALIENT FEATURES OF ASSET:

- For student of classes 3-10;

- Core subject: English, Maths and Science;

- Optional Subjects: Social Studies and Hindi;

- Asset is skill-based exam;

- Provides details customised skill-wise Examination Reports highlighting strengths and weaknesses;

- Benchmarks the student's performance against peers all over the country;

- The ASSET exam is conducted at school and the school based on their internal policy makes ASSET a part of their examination evaluation system;

- Schools choose to take the ASSET exam in summer (July-August) or winter (December).

BENEFIT OF ASSET/ASSET Dynamic :

- Provide feedback/Detailed examination Reports on real learning;

- Allows students to know they stand and pinpoints areas of strengths and weaknesses;

- Allows schools to benchmark themselves against the best and identify areas requiring improvement;

- Provides teachers with insights into where exactly their students stand compared to the national average or another section or school ASSESSMENT OF SCHOLASTIC SKILLS THROUGH EDUCATIONAL TESTING (ASSET):

- The ASSET is an examination tool for educational assessment of students of class 3-10 in schools across India and outside India.

- Under the ASSET, a set of questions is provided on various subjects which are set based on the class level, board (like State or CBSE or ICSE, etc) and the methodology adapted by the school for teaching. These set of questions are either provided in hard copy or also through online mode.

- Under the ASSET, no any pre or post exam teaching is provided to the students. Once the class takes the test under the ASSET, then the answers are evaluated and student wise and class wise results are provided. The exam is conducted at school, and based on their internal policy, all schools make the ASSET mandatory for evaluation of the student and the ASSET results are included in the overall evaluation system of the school. This is confirmed by the agreement-cum-application form for the ASSET also.

22. We now proceed to quote the relevant observations:

"18.2 The term, 'Educational Institution' has been defined vide clause (y) of Paragraph 2 of the said Notification No.12/2017-Central Tax (Rate), as below:-

(y) "educational institution" means an institution providing services by way of,-

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

(ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;

(iii) education as a part of an approved vocational education course;

19. In view of above, the applicant has to satisfy following two conditions in order to be eligible for exemption under Sr.No. 66(b)(iv):

(i) The recipient of the services should be 'Educational Institution' as defined under the clause (y) of Paragraph 2 of the said Notification No. 12/2017-Central Tax (Rate).

(ii) the supply of service should be in relation to the examination conducted by the educational institution.

20. We find that the applicant has stated that they are supplying "ASSET" multiple question to the Schools for the students of 3rd to 10th Standard. Therefore, such schools are already covered under the definition of 'Educational Institution', as provided under sub-clause (i) of clause (y) of Paragraph 2 of the said Notification No. 12/2017-Central Tax (Rate). We find that schools are providing education to the students up to higher secondary standard and therefore fall under the definition of Educational Institution as defined vide clause (y) of Paragraph 2 of the said Notification. In this regard, we refer to a sample copy of agreement held between applicant i.e. Educational Initiative and B R Birla Public School, Jhawar Road, Jodhpur submitted by the applicant. Upon perusal of the said agreement and web site of said School http://brbirlaschool.org/, it is observed that the said school is providing education up to Higher Secondary and affiliated to Central Board of Secondary Education (CBSE). Further, the terms and condition of the said agreement reveal that the applicant has made an agreement with School for supply of ASSET multiple question paper. Accordingly, we hold that the first condition has been fulfilled in respect of claim of subject exemption.

21. It is now to be seen whether the conditions mandated by entry 66 (b) (iv) of notification 12/2017-Central Tax as reproduced are fulfilled or not as far as the services relating to conduct of examination by, such institution; up to higher secondary. We find from the submissions of the applicant that they are supplying ASSET multiple questions to the School for taking the examination on students on yearly basis. Sample agreement submitted by the applicant vide clause 8 stipulates as under:

"It is expressly agreed that test undertaken by school under ASSET FS/FC are mandatory part of the examination and evaluation of the students and ASSET results will be taken into account for overall assessment done by the school. If the need arises the school shall issue a certificate to EI in this regards"

21.1 On reading the above, it comes out that schools taking ASSET will use its results for its examination process and overall assessment of the students. The Schools uses ASSET for the purpose of assessment and diagnostic assessment of its students. ASSET uses multiple-choice question to focus on measuring how well SKILLS and CONCEPTS have been understood by the students. The basic nature of ASSET service is an examination to be conducted by Education Institution (School) but outsourced to the Educational Initiatives (EI). We also find from the submissions of applicant that ASSET is an educational assessment exam taken at school and it does not envisage any kind of coaching and/or training of teachers or administrators. We also find that applicant has submitted that the exam is conducted at school and schools, based on their internal policy, make ASSET a part of their evaluation system. They also give student wise appropriate weight age to ASSET score. In view of above, we find that under ASSET, they provide a set of questions on various subjects which are set by them based on the class level, board (like state or CBSE or ICSE etc) and the methodology adapted by the school for teaching. We find from the sample copies of agreements submitted by the applicant that they make contract with the Schools for supply of ASSET multiple questions of various subjects to their students.

21.2 Term, 'in relation to' has been a matter of discussion in many judgements, Applicant has relied upon the Supreme Court judgement in the case of Doypack Systems (P) Ltd Vs UOI 1988 (36) ELT 201 SC, wherein it was held by the Hon'ble Apex Court that the expressions "in relation to" is a very broad expression and has a very wide meaning, it pre-supposes another subject matter. These are words of comprehensiveness which might both have a direct significance as well as an indirect significance depending on the context. The term "relating to" has been held to be equivalent to or synonymous with as to "concerning with"and "pertaining to". Exemption entry uses this term 'relation to' and therefore we are of the opinion that any service provided which helps the education institution in its act of examination will be covered and shall be eligible for exemption from levy of GST.

21.3 Further, GST flyer 40 dated 1.01.2018 was issued for explaining taxability of education sector where the issue of taxability of auxiliary services procured by educational institutions was clarified as under:

"Education is fundamental to the nation building process. Right to Education is now a fundamental right of every child in India. GST Law recognises this and provides exemption to educational institutions, providing education up to higher secondary school or equivalent, from the levy of GST. Auxiliary services received by such educational institutions for the purpose of education up to Higher Secondary level is also exempt from GST. Other services related to education, not covered by the exemption, would be taxed at a standard rate of 18% with full admissibility of ITC for such taxable services in cases where the output service is not exempt. In a nutshell, every attempt is made to ensure that the core educational services are fully exempt from GST."

21.4 Therefore, we hold that services have been provided to the schools in relation to conduct of examination of students by such educational Institutes. We also take cognizance of case laws, CCE V/s Rajasthan State Chemical Works 1999(55) ELT 444 (SC); Union of India V/s Ahmedabad Electricity Co. Ltd. 2003(158) ELT 3(SC) and M/s. Doypack Systems (P) Ltd. Vs UOI 1988 (36) ELT 201, cited by the applicant, wherein Honorable Supreme Court, while interpreting the term 'relating to' and 'in relation to', has assigned wide and broad view of the term. Therefore, we hold that second condition for availing the exemption has also been satisfied in the instant matter.

22. The applicant has also placed reliance on the decision in the case of West Bengal AAR in case of Ashok Kumar Basu reported at 2018 (10) TMI, wherein it was held that service to such Educational Institution relating to conduct of examination, as described in 66(b) (v) of Noti. No. 12/2017- CT (Rate) dated 28.06.2017, includes supply of the service of printing question papers and is exempt under the GST Act. The said Authority has passed their rulings with respect to eligibility of GST on supply of printing question paper to the educational institute with respect to conducting the examination recognized by education Board. The applicant has also placed reliance on the ruling of M/s.Edutest Solutions Pvt. Ltd., Gujarat AAR (2018 (10) TMI 201) and M/s.The Bangalore Printing and Publishing Co. Ltd., Karnataka AAR (2019 (11) TMI 157), wherein it was held that supply of printing question paper is eligible for exemption under Sr. No. 66(b)(iv) of Noti. No. 12/2017-CT (Rate) dated 28.06.2017, as amended. In these cases, the supplier received orders for printing of question papers, with the content of questions provided to them. However, in the instant case, the applicant has been preparing the questions too apart from printing them. Therefore, we find that in the above cases too, similar kind of service was provided by the service provider to Educational Institutions."

WHAT IS THE APPELLATE AUTHORITY TRYING TO CONVEY IN ITS IMPUGNED ORDER?

> 23. When the appellate authority says that the schools are not conducting the ASSET, or rather, the schools are facilitating the writ-applicant to conduct the ASSET, for which the schools get some remuneration towards the administration cost, it is thereby trying to erroneously convey that instead of the writ-applicant providing services to the schools, the schools are providing services to the writ-applicant, for which the schools receive 'administration cost'.
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> 24. Indisputably, the question papers are set by the writ- applicant and the answers given by the students are assessed by the writ-applicant and the result of the ASSET is also prepared by the writ-applicant. The basic nature of the ASSET service is an examination to be conducted by the Educational Institution (School) but outsourced to the Educational Initiatives (EI). The observations made by the AAR in para 21.1 of its order clinches.
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> 25. It is now well-settled that even in tax statutes, an exemption provision should be liberally construed in accordance with the object sought to be achieved if such provision is to grant incentive for promoting education or otherwise has some beneficial reason behind it. The exemption notification should be given a literal meaning. The recourse to other principles or canons of interpretation of statute should be resorted to only in the event the same give rise to anomaly or absurdity. As observed earlier, the exemption notification must be construed having regard to the purpose and object it seeks to achieve. The notification in the case on hand should be read as a whole.
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> 26. We are of the view that there need not be any further debate on the question, whether the services provided by the writ-applicant to the schools, which are educational institutions, fall within the meaning of the aforesaid notifications. The services, definitely, in our view, fall within the two notifications referred to above.
>
> 27. In the overall view of the matter, we are convinced that the impugned order passed by the Gujarat Appellate Authority for Advance Ruling is not sustainable in law."

20. The Adjudicating Authority attempted to distinguish the decision in Educational Initiatives Pvt Ltd., supra, on the ground that the ASSET examinations formed part of school's internal assessment whereas, the appellant's examinations do not. In our view, the distinction drawn is more apparent than real. The ratio of the Gujarat High Court is not confined to the peculiar facts of ASSET examinations but proceeds on the interpretation of the expression "services relating to conduct of examination" occurring in the exemption notification. The principle laid down therein is that examination-related services provided to educational institutions are eligible for exemption. Unless the notifications itself differentiates between the various categories of examinations, such distinction cannot be introduced through administrative interpretation.

21. The appellant has also relied upon the decision of the Hon'ble Gujarat High Court in Sahitya Mudranalaya, supra, wherein the Court observed that the expression "Education" deserves a board and purposive interpretation and that examination activities constitute an inseparable component of the educational process. The relevant paragraphs of the aforesaid judgment are reproduce here in below for ready reference:

> "13. The moot question that, therefore, arises for consideration is whether the Boards and University to whom services are provided by the petitioners are "educational institutions".
>
> 13.1 It is the case of the petitioners that in view of the functions and duties of the Boards/University under the relevant statutes, the services provided to them fell under the negative list till 13.05.2016. Furthermore, it is the case of the petitioners that the services provided by them are covered under Mega Exemption Notification No. 25/2012-ST dated 20.06.2012 as amended from time to time.
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> 13.2 Vide section 143(F) of the Finance Act, 2012, with effect from 01.07.2012, the Finance Act, 1994 came to be amended whereby section 66D, which provides for negative list of services came to be inserted. Services which fall under the negative list of services are not chargeable to service tax under section 66B of the Finance Act, 1994 on or after the coming into force of the Finance Act, 2012.
>
> 13.3 Clause (l) of section 66D of the Finance Act, 1994, which is relevant for the present purpose, reads thus:
>
> "66-D. Negative list of services.- The negative list shall comprise of the following services, namely-
>
> (l) services by way of -
>
> (i) pre-school education and education up to higher secondary school or equivalent;
>
> (ii) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;
>
> (iii) education as a part of an approved vocational education course."
>
> 13.4 Entry 9 of Mega Exemption Notification No.25/2012-ST dated 20th June, 2012, which was effective from 01.07.2012 to 31.03.2013, reads as under:
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> "9. Services provided to or by an educational institution in respect of education exempted from service tax, by way of,-
>
> (a) Auxiliary educational services; or
> (b) Renting of immovable property;
>
> Definition (f) - "auxiliary educational services" means any services relating to imparting any skill, knowledge, education or development of course content or any other knowledge - enhanced activity, whether for students or the faculty, or other services which educational institutions ordinarily carry out themselves but may obtain as outsourced services from any other person, including services relating to admission to such institution, conduct of examination, catering for students under

any mid-day meals scheme sponsored by Government, or transportation of students, faculty or staff of such institution;"

13.5 With effect from 11th July, 2014, the definition of "educational institution" came to be inserted in Mega Exemption Notification No.25/2012 dated 20th June, 2012 vide clause (oa), which was in force from 11.07.2014 to 14.05.2016. Clause (oa) reads as under:

"(oa) Educational institution means an institution providing services specified in clause (l) of section 66D of the Finance Act, 1994."

13.6 The definition of "educational institution" in Mega Exemption Notification No.25/2012 came to be further amended with effect from 14.05.2016, and reads thus:

"(oa) "educational institution" means an institution providing services by way of:

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

(ii) Education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;

(iii) Education as a part of an approved vocational education course."

13.7 Thus, with effect from 14.05.2016, the definition of "educational institution" is brought in line with clause (l) of section 66D of the Finance Act, 1994 and is identically worded.

13.8 At this juncture, reference may be made to CBEC Circular No.172/7/2013-ST dated 19.09.2013, which has been issued for clarification regarding levy of service tax on certain services relating to the education sector. The said circular refers to clause (l) of section 66D of the Finance Act, 1994 as well as Serial No. 9 of Notification No.25/2012-ST dated 20.06.2012. In paragraph 3 of the said circular, it is provided thus:

"3. By virtue of the entry in the negative list and by virtue of the portion of the exemption notification, it will be clear that all services relating to education are exempt from service tax."

13.9 While "educational institution" came to be defined for the first time with effect from 11.07.2014, the services mentioned in section 66D (l) of the Finance Act, 1994 continued to be exempted.

13.10 According to the respondents, the services provided by the institutions to which services are provided by the petitioners, are not services which can be said to be services by way of pre-school education and education up to higher secondary or equivalent; education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force; or education as a part of an approved vocational education course; and therefore, the activities carried out by the Boards/University do not fall within the ambit of clause (l) of section 66D of the Finance Act, 1994 or clause (oa) of the Mega Exemption Notification.

13.11 It is further the case of the respondents that auxiliary education services, that is, conduct of examination and result processing are exempted only if such services are provided to an educational institution. It, however, is not in dispute that the services provided by the petitioners are in the nature of auxiliary education services as defined under clause (f) of the definitions paragraph of the Mega Exemption Notification.

13.12 Notification No.06/2014 - Service Tax dated 11.07.2014 defines "educational institution" to mean an institution providing services specified in clause (l) of section 66D of the Finance Act, 1994. Therefore only those entities which provide such services would qualify under the term "educational institution".

13.13 It appears that according to the respondents the term "educational institution" envisages only those institutions which actually enroll students and impart education. In paragraph 7.6 of the show-cause notice, it has been stated that on examining the functions and duties of the above said Boards/University, it appears that these Boards/University are functioning as organisations which are entrusted with the work of creating more schools/colleges/institutes under their affiliation, to prepare the syllabus of education for such institutes, to conduct the academic tests and exams, to appoint examiners/supervisors for smooth conduct of examination, to declare the results of such examinations etc. On a broader aspect, these University/Boards work more like managerial organisations to plan the syllabus of education and conduct of examination for institutes affiliated under them. For this purpose, the Boards/University procure services of other service providers for such examination related and result processing services. According to the respondents, therefore, on reading the definition of 'educational institution' as given under the Finance Act, 1994 and comparing it with the functions and duties of the (i) GSEB, (ii) GTU, (iii) MSEB and (iv) MSCE, these institutions do not qualify as "educational institutions".

13.14 The scope and ambit of the expression "educational institution" as defined under clause (oa) of the Mega Exemption Notification requires to be examined. Furthermore, it is required to be ascertained as to whether the services provided by the petitioners to the Boards/University fall within the ambit of clause (l) of section 66D of the Finance Act. Under clause (oa) of the Mega Exemption Notification, "educational institution" is defined to mean an institution providing services by way of: (i) Pre-school education and education up to higher secondary school or equivalent; (ii) Education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force; (iii) Education as a part of an approved vocational education course. Clause (l) of section 66D of the Finance Act, 1994 reads thus:

"(l) services by way of-

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

(ii) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;

(iii) education as a part of an approved vocational education course."

13.15 Thus, the nature of services referred to in clause (l) of section 66D of the Finance Act, 1994 and clause (oa) of the Mega Exemption Notification are verbatim.

13.16 The question is, whether the narrow meaning sought to be assigned to the word "education" by the respondents is required to be adopted, namely only those institutions which directly impart education to the students; or a broader meaning which includes even those institutions which are connected with the education of those students.

13.17 At this juncture, reference may be made to certain decisions on which reliance has been placed on behalf of the petitioners.

13.17.1 In Gujarat University v. Krishna Ranganath Mudholkar, (supra), the Supreme Court held that the expression "education" is of wide import and includes all matters relating to importing and controlling education.

13.17.2 In P. A. Inamdar v. State of Maharashtra, (supra), the Supreme Court held thus:

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

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

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

83. In Sole Trustee, Lok Shikshana Trust v. CIT, the term "education" was held to mean:

"the systematic instruction, schooling or training given to the young in preparation for the work of life. It also connotes the whole course of scholastic instruction which a person has received. What education connotes is the process of training and developing the knowledge, skill, mind and character of students by formal schooling."

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

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

13.17.3 ln Nidhi Kaim v. State of M.P., (supra) the Supreme Court held that the examination is always considered as one of the major means to assess and evaluate candidate's skills and knowledge be it a school test, university examination, professional entrance examination or any other examination. Candidate's fitness for his further assignment, whether in studies or employment is, therefore, judged on the basis of his performance in the examination. It is for this reason, the examination is considered as a common tool around which the entire education system revolves.

13.17.4. In State of T.N. V.K. Shyam Sunder, (supra) the Supreme Court held thus:

"21. There has been a campaign that right to education under Article 21-A of our Constitution be read in conformity with Articles 14 and 15 of the Constitution and there must be no discrimination in quality of education. Thus, a common syllabus and a common curriculum is required. The right of a child should not be restricted only to free and compulsory education, but should be extended to have quality education without any discrimination on the ground of its economic, social and cultural background."

13.18 Thus, the Supreme Court, in the above decisions, has held that:

- the expression "education" is of wide import and includes all matters relating to imparting and controlling education;

- the examination is always considered as one of the major means to assess and evaluate candidate's skills and knowledge be it a school test, university examination, professional entrance examination or any other examination.

- Candidate's fitness for his further assignment whether in studies or employment is, therefore, judged on the basis of his performance in the examination. It is for this reason, the examination is considered as a common tool around which the entire education system revolves.

- For the purpose of bringing the right to education under Article 21 of the Constitution in conformity with Articles 14 and 15, there must be no discrimination in the quality of education, which requires a common syllabus and a common curriculum.

13.19 The Orissa High Court, in Secondary Board of Education, Orissa v. Income Tax Officer, Ward "E", Cuttack, (supra), has held thus:

"The Board of Secondary Education is not a University but it is undisputedly an educational institution.

Xxxx The income and expenditure of the Board is controlled and the entire expenditure is to be directed towards development and expansion of educational purposes. Even if there is some surplus it is not appropriated by others but it remains part of the sinking fund to be devoted to the cause of education as and when necessary. This being the objective and there being various ways of control of income and expenditure, the Board of Secondary Education cannot be said to be existing for purposes of profits. It exists solely for purposes of education."

13.20 This court respectfully concurs with the above view of the Orissa High Court, namely that the Board of Secondary Education exists solely for the purposes of education.

13.21 In the light of the above principles enunciated in the decisions referred to hereinabove, this court is of the opinion that the word "education" cannot be given a narrow meaning by restricting it to the actual imparting of education to the students but has to be given a wider meaning which would take within its sweep, all matters relating to imparting and controlling education. Examination is an essential component of education as it is one of the major means to assess and evaluate the candidate's skills and knowledge, be it a school test, university examination, professional entrance examination or any other examination. As held by the Supreme Court, the examination is considered as a common tool around which the entire education system revolves.

13.22 Thus, education would mean the entire process of learning, including examination and grant certificate or degree or diploma, as the case may be and would not be limited to the actual imparting of education in schools, colleges or institutions only. Unless the School Boards hold examinations, the education of school students would not be complete, so is the case with college students, whose education would be complete only when the University conducts examinations and awards degrees or diplomas. It is the School Boards which issue the Secondary and Higher Secondary School Certificates after holding examinations and the University which confers degrees/diplomas etc. after holding examinations. Unless a student holds a certificate issued by a Board, his or her school education would not be complete, similarly, without a degree or diploma being conferred by the University, college education would not be complete. Therefore, examinations are an indispensable component of education, without which such education is incomplete.

Therefore, to say that Boards/Universities are not "educational institutions" would amount to divorcing examinations from education.

13.23 Clause (l) of section 66D of the Finance Act may be examined in the light of the above. Sub-clause (i) of clause (l) refers to pre-school education and education up to higher secondary school or equivalent. When the sub-clause says education up to higher secondary school or equivalent, it goes without saying that it includes the examination leading to conferment of a certificate of having passed the higher secondary school or equivalent. Similarly when sub-clause (ii) says education as a part of the curriculum for obtaining a qualification recognized by any law for the time being in force, it is apparent that the legislature meant the entire process of preparation of curriculum to the holding of examination leading to obtaining of a qualification recognized by any law for the time being in force. If the contribution of the Boards/Universities is excluded, there would be no curriculum for obtaining a qualification nor would there be examination leading to conferment of such qualification. Clearly, therefore, it was not the intention of the legislature to exclude preparation of curriculum and holding of examinations from the ambit of clause (l) of section 66D of the Finance Act, 1994. As a necessary corollary, therefore, the School Boards and the University in question would clearly fall within the ambit of the expression "educational institution" as contemplated under clause (oa) of entry No.2 of Notification No. 25/2012-ST and services provided by such Boards/University would also fall within the ambit of the services as postulated under clause (l) of section 66D of the Finance Act.

13.24 The Government of India has also adopted a similar approach in its Notification No.14/2018 - Central Tax (Rate) dated 26th July, 2018 issued in exercise of powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017, wherein it has been clarified that the Central and State Educational Boards shall be treated as educational institutions for the limited purpose of providing services by way of conduct of examination to the students.

14. Once the Boards/University to whom services have been provided by the petitioners, are held to be educational institutions, the very substratum of the impugned show-cause notices is lost inasmuch as the show-cause notices are premised on the allegation that the service recipients namely the Boards/University referred to hereinabove are not educational institutions and, therefore, the services rendered by them do not fall within the negative list of services as provided under section 66D(l) of the Finance Act, 1994 and that the Board/University are not "educational institutions" as defined under clause (oa) of Entry No.2 of the Mega Exemption Notification No.25/2012-ST dated 20.06.2012.

15. Once it is held that the service recipients are educational institutions, the impugned show-cause notices are rendered unsustainable. Therefore, the question as to whether the respondents were justified in invoking the extended period of time on the ground that the petitioners had, with an intention to evade payment of service tax, misstated that these organisations are educational institutions to claim incorrect and ineligible exemption, is rendered more or less academic. Nonetheless the court deems it fit to answer this question also.”

22. We respectfully agree with the said principle. Examination is not merely the Final Board Examination but includes the entire process of assessment through which educational institutions evaluate the academic abilities of students and thereafter take corrective actions where they find

any scope of improvement. Hence such examinations help them in improving quality education to their students.

23. The Adjudicating Authority has also relied upon the circumstance that the appellant started discharging GST on similar services from 01.04.2018. In our opinion, this circumstance cannot determine the taxability during the Service Tax regime. Tax liability has to be determined strictly in accordance with statutory provisions applicable during the relevant period. Subsequent conduct of an assessee under a different taxing statute cannot decide the interpretation of an exemption notification applicable during an earlier period.

24. We also find that the Adjudicating Authority has placed undue emphasis upon the promotional features of the appellant's examinations and the fact that participation is voluntary. These considerations, though relevant from a factual prospective, do not displace the essential character of the services rendered. The dominant nature of the activity continues to be preparation, conduct and evaluation of examinations undertaken their educational institutions.

25. Consequently, we hold that the appellant satisfies all the essential ingredients of Entry No. 9(b) of Notification No. 25/2012-ST. The educational institutions are the recipients of the services; the services rendered by the appellant are directly and intrinsically connected with the conduct of examinations; and no additional condition requiring the examinations to form part of the prescribed curriculum can be read into the exemption notification.

26. Accordingly, the finding recorded by the Adjudicating Authority denying the exemption under Notification NO. 25/2012-ST cannot be sustained and is liable to be set aside.

27. Further, we note that pursuant to liberty given to both the sides to file additional submissions, if any, both department as well as the appellant has filed their additional submissions. Insofar as department is concerned, apart from reiterating their earlier submissions, have submitted that in the instant case, the appellants had conducted skill based assessment test/exam to the schools for selected few students and that the said exams and diagnostic tests conducted by the appellant are not prescribed as part of school curriculum as per CBSE/State Board Authorities, as also the aim and objective of their exams/tests are mainly to judge the fundamental understanding of concepts and application of skills. The department further reiterated that in terms of judgment of Hon'ble Supreme Court in the case of CC (Import), Mumbai Vs Dilip Kumar & Company [2018 (361) ELT 577 (SC)], the exemption notification has to be interpreted strictly. They have also submitted that reliance placed on the judgment of Educational Initiatives Pvt Ltd., supra, and Sahitya Mudranalaya Vs Additional Director General, supra, are not applicable and are distinguishable primarily on the ground that in the present case examination fee is not collected from the schools but from the individual students. They have also submitted that there is difference between ASSET exam and exam conducted by the appellant.

28. Per contra, the appellants, in their additional submissions, have mainly submitted that this view of the department is not borne out of statutory provisions, as also a plain reading of entry 9(b)(iv) of the said notification, as the said entry contains no condition that examination to be compulsory. They have also disputed that the averment made by the department that the fees had come from students and not from the schools is factually wrong. In this regard, they have submitted that the schools compile list of interested students and they themselves remit the fees to the appellant and the

receipts are credited from the schools bank account where the schools also deduct tax at source for those payments, which they would do only when the payment is under contract with the appellant. Further, all correspondences from enrollment to dispatch of result is with school and not with the individual students and they have no contract of any sort with the students. Insofar as non-applicability of the judgment in the case of Sahitya Mudranalaya Vs Additional Director General, supra, and Educational Initiatives Pvt Ltd., supra, they have submitted that the conditions of the notification does not warrant that the examination has to be mandatory and there is no such evidence on record that the ASSET was aligned with Board syllabus, whereas, appellant's examinations are not. Insofar as reliance placed on the case of CC (Import), Mumbai Vs Dilip Kumar & Company, supra, by the department, they have submitted that construction of exemption notification has to be strict and in case there is a grey area, the benefit has to be given to the department.

29. We find that all these issues have been discussed in the foregoing paras. We also find that reliance placed on the case of CC (Import), Mumbai Vs Dilip Kumar & Company, supra, is not applicable in the facts of the case as there is no confusion or grey area in interpretation based on plain reading of the entry 9(b)(iv) of the notification. We also find that this is a beneficial notification inasmuch as all kinds of services, which are being provided to an educational institution towards certain activities, are exempted from payment of service tax. Therefore, this is a beneficial notification and as held in the case of Govt. of Kerala Vs Mother Superior Adoration Convent [2021 (5) SCC 602], the applicability of CC (Import), Mumbai Vs Dilip Kumar & Company, supra, was distinguished in such beneficial notifications. The reliance placed by the appellant on Educational Initiatives Pvt Ltd., supra, and Sahitya Mudranalaya Vs Additional Director General, supra, is also

applicable in the facts of the case and the grounds taken by the department are not justified for distinguishing this case, insofar as the ratio of the said case is concerned. We also note that even for the period prior to 11.07.2014, when the amendments were enacted, the services were exempted under S.No.9 of the Notification No. 25/2012. Therefore, the demand on merits does not survive.

30. Having held that the services rendered by the appellant are entitled to exemption under Entry No. 9(b) of Notification No. 25/2012-ST, the very foundation of the demand ceases to exist. Nevertheless, since elaborate arguments have been advanced on limitation and penalties, we deem it appropriate to examine those issues as well.

31. The impugned order invokes the extended period under the proviso to Section 73(1) of the Finance Act, 1994 on the allegation of suppression of facts with intent to evade payment of Service Tax. We find ourselves unable to sustain such invocation.

32. The issue involved in the present appeal is purely interpretational. The controversy revolves around the scope and ambit of an exemption notification and the meaning of expression "services relating to conduct of examination". The appellant had maintained regular books of accounts disclosed its receipts in its financial statements and Income Tax Returns and had furnished the requisite information during investigation. The entire demand has been workout from the records maintained by the appellant itself. There is no allegation, much less evidence, of any clandestine activity, valuation of records or deliberate concealment of taxable value.

33. It is well settled by a catena of decisions of the Hon'ble Supreme Court, including Pushpam Pharmaceuticals Company, supra, Padmini Products, supra, Uniworth Textiles Ltd., supra, Stemcyte India Therapeutics

Pvt Ltd., supra, that mere non-payment of tax or adoption of a legal interpretation subsequently found to be incorrect does not amount to suppression of facts or willful mis-statement so as to justify invocation of extended period. The element of intention to evade payment of tax must be established by positive evidence, which is conspicuously absent in the present case. The relevant para of the Stemcyte India Therapeutics Pvt Ltd., as thus:

> "It is a settled principle of law that, for the department to invoke the extended period of limitation, there must be an active and deliberate act on the part of the assessee to evade payment of tax. Mere non-payment of tax, without any element of intent or suppression, is not sufficient to attract the extended limitation period."

34. We also find merit in the submission that during the relevant period their existed divergent judicial opinions regarding taxability of examination-related services. The issue itself ultimately travelled to various High Courts. Such divergence of legal opinion itself demonstrates that the dispute was interpretational in nature. Consequently, the extended period of limitation was not available to the Department.

35. We, therefore, hold that the invocation of the proviso to Section 73(1) of the Finance Act, 1994 is not sustainable. On this ground also, the demand extending beyond the normal period is liable to be set aside.

36. The penalty imposed under Section 78 entirely founded upon the allegation of suppression with intent to evade payment of tax. Once the demand itself is held to be not sustainable and the invocation of extended period is found to be without authority of law, the penalty under Section 78 cannot survive. Likewise, the penalty under Section 77 upon the appellant and the penalty imposed upon its Director are only consequential to the principal demand. Since the tax demand itself is liable to be set aside, the penalties imposed under Section 77 and 78 as well as upon the Director

automatically fall. Even otherwise, the material on record clearly establishes that the appellant entertained a bonafide belief recording the applicability of the exemption notification. The dispute concerns interpretation of statutory provisions and exemption notifications. There is nothing on record to suggest any deliberate attempt to evade tax. Therefore, even on this independent ground, penal consequences would not have been justified.

37. In view of the above discussion, we hold that the services render by the appellant are covered by Entry No. 9(b) of Notification No. 25/2012-ST dated 20.06.2012 as services provided to educational institutions relating to the conduct of examinations. We further hold that the extended period of limitation has been wrongly invoked in the facts and circumstances of the case. Consequently, the confirmation of Service Tax demand, interest and penalties are not sustainable, both on merits as well as on limitation.

38. Accordingly, impugned order is set aside and appeal is allowed with consequential relief, if any, in accordance with law.

(Pronounced in the open court on 31.07.2026)

(A.K. JYOTISHI)
MEMBER (TECHNICAL)

(ANGAD PRASAD)
MEMBER (JUDICIAL)

Shirisha