1 NATION TAX MARKET GST	**KERALA AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX DEPARTMENT TAX TOWER, THIRUVANANTHAPURAM**	KERALA GST State Goods & Services Tax

BEFORE THE AUTHORITY OF: Shri Jomy Jacob, IRS &

: Shri Mansur M.I.

Legal Name of the applicant	DIRECTORATE OF MEDICAL EDUCATION
GSTIN	32AAAGD1378P1ZA
ARN	AD320324002197M
Address	Building No.1,Medical College (PO), Thiruvananthapuram, Kerala- 695011
Advance Ruling sought for	1- Whether GST is applicable to the fees collected from Medical Officers, Nursing Staff and Paramedical staffs under Medical Education Department who wish to avail Leave without allowance for employment within the country or abroad . If yes, rate of GST to be applied? 2- Whether GST is applicable to the fees collected from Self-financing educational institutions for conducting departmental inspection for issuing NOC/EC for starting new self-financing Medical, Nursing, Dental colleges or starting new Courses and for enhancement of seats. If yes, rate of GST to be applied? -
Date of Personal Hearing	16-04-2025
Authorized Representative	Sri. S.R. Rajesh, Authorized Representative



ADVANCE RULING No.KER/07/2025 Dated 16.04.2025

1. The applicant represents the Directorate of Medical Education, Government of Kerala.

2. In this Ruling, a reference hereinafter to the provisions of the CGST Act, Rules or the Notifications issued thereunder shall include a reference to the corresponding provisions of the KSGST Act, Rules or the Notifications issued thereunder.

3. The details of the questions on which advance ruling is sought are given above and are not being reproduced.

4. The contentions of the applicant:

4.1 As per Order No GO (Rt No.2190/2003/H&FWD dated 22/07/2023 the Government of Kerala ordered to levy fees from the Medical Officers, Nursing Staff and Paramedical Staffs under Health Services Department and Medical Education Department who wish to avail leave without allowances as part of imposing restrictions in the matter of granting leave without allowances since the departments faced acute shortage of doctors, nurses and paramedical staff because of mass availing of LWA for private employment both inside the county and abroad. The rates so fixed were Rs. 50,000/- to the category of Asst. Professor above and Rs 15,000/- for Lectures & Non-teaching staff.

4.2 As per Order No.GO (MS) NO.191/2023 H&FWD dated 05/08/2023, the fees for departmental inspection for issuing NOC/EC for starting new self-financing Medical, Nursing, Dental colleges or starting new courses and enhancement of seats for various medical & paramedical courses in self-financing institutions are also enhanced. The applicant wants to know whether GST is available on the above and if so, what are the applicable rates of GST.

5. Comments of the Jurisdictional Officer

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The application was forwarded to the jurisdictional officer as per provisions of Section 98 (1) of the CGST Act. The Jurisdictional officer reported that no proceedings related to issue raised in the advance ruling application pending in that office. Hence it is construed that no proceedings are pending on the issue against the applicant.

6. Personal Hearing:

The applicant was granted an opportunity for a personal hearing on 16.04.2025. Shri. S.R. Rajesh, Authorized Representative represented the applicant in personal hearing and reiterated the averments in the written submission.

7. Discussion and Findings:

7.1 The first issue to be decided is the taxability on fee collected by the applicant from employees who proceed on leave without allowance for engaging in private employment.

7.1.1 The applicant submits that the same is collected in order to restrict the employees from applying for such leave since the applicant faces a dearth of employees. We have carefully examined the nature of the activity in question, i.e., the granting of leave without allowances (LWA) to employees of the Health Services and Medical Education Departments, and levy of fee in this regard, as mandated by specific Government Orders.

7.1.2 The primary legal basis for determining the non-applicability of GST on the fee collected from Medical and Paramedical Officers availing Leave Without Allowance (LWA) is drawn from CBIC Circular No. 178/10/2022-GST dated 03.08.2022. Paragraph 7.5 of the said circular clarifies that amounts recovered by an employer in the form of forfeiture of salary or bond amount, where an employee leaves the organization before the minimum agreed period, are not to be treated as consideration for tolerating an act. The circular further explains that such charges are in the nature of deterrents or penalties imposed by the

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employer to discourage non-serious engagement and premature exit. It expressly concludes that no benefit is rendered in return to the employee for such payments, and therefore, such amounts are not taxable under GST. The policy behind the imposition of LWA fees by the Directorate of Medical Education (DME) aligns with the above rationale, in as much as the fee is collected not as consideration for any service rendered, but purely as a mechanism to discourage indiscriminate availing of LWA, which severely affects the functioning of public healthcare institutions.

7.1.3 The imposition of the LWA fee is rooted in a well-defined government policy as detailed in G.O. (Rt) No. 2190/2003/H&FWD dated 22.07.2003. The rationale for levying such a fee is to address acute manpower shortages in the Health Services and Medical Education Departments caused by mass availing of leave without allowances for private employment. The Government Order makes it clear that the levy is not intended to provide any service or benefit to the applicant but is part of a regulatory mechanism designed to safeguard public interest. Such a fee, imposed as part of the employer's administrative powers and not with the intent of providing any taxable supply, falls outside the purview of "supply" as defined in Section 7 of the CGST Act, 2017.

7.1.4 The fee in question operates as a deterrent and is in the nature of a policy penalty rather than a contractual or commercial fee. It is not intended to compensate for or to correspond with any service rendered by the department to the employee. The officer seeking LWA does not receive any new right or benefit in return for the payment of the fee; rather, the leave itself continues to be governed by the Kerala Service Rules, and its sanction remains discretionary. The payment does not induce any special accommodation or confer any special entitlement, and therefore lacks the characteristics of a transactional exchange. The absence of reciprocal benefit or enforceable obligation indicates that the fee does not constitute consideration within the meaning of Section 2(31) of the CGST Act.

7.1.5 It is further noted that the Directorate of Medical Education is not engaged in any business activity while levying the said fee. The fee is imposed in the

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course of discharging statutory and administrative responsibilities as a government department. The officer remitting the fee is not acting in a business capacity, but in an individual and personal employment-related context. Hence, the fee is neither collected in the course or furtherance of business, nor does it fall within the parameters of commercial supply. Moreover, even if the activity were to be interpreted as a service, the exemption provided under Entry 6 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 would apply, as the recipient of the service is an individual and not a business entity.

7.1.6 It is pertinent to clarify that the Directorate is not under any contractual obligation to tolerate the act of taking leave. The grant of leave is governed strictly under the Kerala Service Rules and is subject to administrative discretion. There exists no contractual arrangement under which the Directorate agrees to tolerate the act of absence from duty in exchange for a payment. Therefore, the imposition of a fee for seeking LWA does not attract the deeming fiction of supply under Entry 5(e) of Schedule II to the CGST Act, which applies only in cases where a party agrees, under a contractual arrangement, to tolerate an act or situation for consideration.

7.1.7 There is no identifiable consideration flowing to the Directorate in return for any corresponding supply or service. The payment of the fee is not linked to the provision of any deliverable or benefit to the employee. The leave sanction remains an independent administrative act. Consequently, the payment does not satisfy the definition of consideration under Section 2(31) of the CGST Act. In the absence of consideration, there can be no supply, and in the absence of supply, there can be no taxable event under GST law.

7.1.8 M/s Manappuram Finance Ltd. v. Assistant Commissioner, Central Tax and Excise, Thrissur & Anr.[2022] (Ker) WP(C) No. 27373 of 2022, upheld the applicability of Circular No. 178/10/2022-GST and categorically held that notice pay recoveries do not constitute a supply under GST. The Hon'ble Court recognized that such amounts are not paid in return for any service and that Entry 5(e) of Schedule II applies only where there is a contractual arrangement to

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tolerate an act. This judicial validation lends strong support to the position that LWA fees, being similar in nature to notice pay or bond recovery, are not subject to GST.

7.1.9 It is concluded that the collection of fees from Medical and Paramedical Officers for availing Leave Without Allowance (LWA) does not amount to a "supply" under Section 7 of the CGST Act, 2017. The act of granting leave arises out of an employer-employee relationship governed by service rules, and the levy of such fees is an administrative measure introduced as part of a broader public policy aimed at deterring indiscriminate availing of LWA, which adversely impacts the delivery of essential public health services. The fee does not involve any provision of goods or services, nor is it collected in the course or furtherance of any business activity. There is no contractual obligation on the part of the applicant to tolerate the act of taking leave, and the payment made by the employee is not in the nature of consideration for any service rendered. As clarified in CBIC Circular No. 178/10/2022-GST dated 03.08.2022, such deterrent or penal recoveries, including forfeiture of bond amounts or notice pay, are not consideration for any supply and are therefore not taxable. In view of the above, it is held that the fees collected in this context do not constitute taxable supply under GST law, and accordingly, no GST is leviable on such transactions.

7.2 The second issue is regarding taxability of Inspection fees. The applicant is collecting fees from Self-financing educational institutions for conducting departmental inspection for issuing NOC/EC for starting new self-financing Medical, Nursing, Dental colleges or starting new Courses and for enhancement of seats.

7.2.1 As per the provisions of Section 7 of the Central Goods and Services Tax Act, 2017, "supply" encompasses all forms of services provided for a consideration in the course or furtherance of business. In the present matter, the inspections and certifications carried out by the Directorate of Medical Education are as part of its statutory responsibilities to evaluate the infrastructural and academic preparedness of private institutions prior to their recognition or expansion. While

the Directorate performs a regulatory function, the collection of fees for such inspection services constitutes a distinct transaction involving the provision of a service to private institutions for a consideration. In this context, the nature and recipient of the service, as well as applicable exemptions, must be carefully examined.

7.2.2 As per Section 7(1)(a) of the CGST Act, 2017, "supply" includes all forms of services provided for a consideration in the course or furtherance of business. In the present case, the self-financing institution is the recipient of a service rendered by a statutory authority, namely the DME, and the service facilitates a business operation—namely, the running of a private medical or paramedical educational institution. The institution, though educational in character, operates as a self-financing and revenue-generating entity and is therefore considered a "business entity" within the meaning of the GST law.

7.2.3 The exemption under Entry 66 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 is applicable only to services provided by educational institutions to their students, faculty, or staff, and to certain services received by such institutions in relation to pre-school and education up to higher secondary level. The services in question, namely inspection and certification by the DME, are rendered to the institution itself and not to its students or staff. Furthermore, these services are rendered prior to the commencement or expansion of educational activities and thus are not incidental to the imparting of education. Hence, the benefit of exemption under Entry 66 is not available.

7.2.4 CBIC Circular No. 234/28/2024-GST dated 11.10.2024 provides detailed clarification on the taxability of affiliation-related services under GST. The circular considers two distinct scenarios: first, affiliation services provided by universities to affiliated colleges, and second, affiliation services rendered by regulatory bodies such as educational boards or councils to schools. In both cases, the circular concludes that such services are taxable at the standard GST rate of 18%, as they are rendered to business entities in the course or furtherance

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of business and are not covered by any exemption under Notification No. 12/2017-Central Tax (Rate). An exemption has been carved out only in respect of affiliation services provided to government schools (owned or controlled by government authorities), effective from 10.10.2024.

7.2.5 By parity of reasoning, the affiliation-like services provided by the Directorate of Medical Education-namely, the inspection of facilities, faculty, infrastructure, and the issuance of No Objection Certificates (NOC) or Essentiality Certificates (EC) to private, self-financing medical, nursing, and dental colleges-are functionally and legally similar to the affiliation services discussed in the circular. These services are rendered for a consideration to private institutions for the purpose of enabling or expanding their commercial educational operations. Such services are not rendered to students or for the purpose of imparting education, but rather constitute a regulatory assessment and grant of eligibility to operate. Accordingly, following the same interpretation adopted in Circular 234, the services rendered by DME to self-financing institutions are also liable to GST at the rate of 18%.

7.2.6 Judicial support for this position can be drawn from the decision of the Hon'ble High Court of Telangana in *Care College of Nursing & Others v. Kaloji Narayana Rao University of Health Sciences* (2023), where it was held that affiliation and inspection fees collected from self-financing institutions by the university are not covered by educational exemptions and are liable to GST. Similarly, in AAR Tamil Nadu Order No. 37/ARA/2020, the Authority ruled that fees collected by Bharathiar University for inspection and affiliation services were taxable and not covered by Notification No. 12/2017.

7.2.7 In terms of classification, such inspection and certification services do not fall under SAC 9992 (education services) but are appropriately classifiable under SAC 999799 – "Other services nowhere else classified". As per Notification No. 11/2017-Central Tax (Rate), services under SAC 999799 attract GST at the standard rate of 18% (9% CGST + 9% SGST).

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In light of the foregoing legal provisions, circulars, and judicial interpretations, it is concluded that the fees collected by the Directorate of Medical Education from self-financing institutions for conducting inspections and issuing NOC/ECs constitute a taxable supply of service under GST and attract GST at the rate of 18%.

In the light of the facts and legal position as stated above, the following rulings are issued:

RULING

Question:1. Whether GST is applicable to the fees collected from Medical Officers, Nursing Staff and Paramedical staffs under Medical Education Department who wish to avail Leave without allowance for employment within the country or abroad . If yes, rate of GST to be applied?

Ruling: GST is not chargeable on the fees collected from Medical and Paramedical officers, Nursing Staff under Medical Education Department who wish to avail Leave without allowance for employment within the country or abroad.

Question:2. Whether GST is applicable to the fees collected from Self-financing educational institutions for conducting departmental inspection for issuing NOC/EC for starting new self-financing Medical, Nursing, Dental colleges or starting new Courses and for enhancement of seats. If yes, rate of GST to be applied.

Ruling: GST is applicable to the fees collected from Self-financing educational institutions for conducting departmental inspection for issuing NOC/EC for starting new self-financing Medical, Nursing, Dental colleges or starting new Courses and for enhancement of seats. The rate of GST is 18%.

Jomy Jacob, IRS
Addl. Commissioner of Central Tax
Member

Mansur. M.I.
Joint Commissioner of State Tax
Member

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OFFICE OF THE COMMISSIONER STATE G.S.T.D KERALA THIRUVANANTHAPURAM

To

The Directorate of Medical Education,
Medical College (PO),
Thiruvananthapuram- 695001.

Copy submitted to:-

1. The Chief Commissioner of Central Tax and Central Excise, Thiruvananthapuram Zone, C.R.Building, I.S.Press Road, Cochin- 682018. [E-mail ID: cccochin@nic.in; ccu-cexcok@nic.in]
2. The Commissioner of State Goods and Services Tax Department, Tax Towers, Karamana, Thiruvananthapuram – 695002.
3. The Commissioner of Central Tax and Central Excise, Thiruvananthapuram Commissionerate, GST Bhavan, Statue, Thiruvananthapuram. (E-mail id: commr-tvmhqrs@gov.in)

Copy to:-

1. Additional Commissioner, TPS (HQ), Thiruvananthapuram.
2. The Deputy Commissioner, ITMD,O/o the Commissioner of State Tax, Thiruvananthapuram.
3. The Assistant Commissioner/ State Tax Officer, Tax Payer services Circle, Pattom.
4. The Superintendent, Central Tax, Veli Range, Thiruvananthapuram Division.

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