

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI.
PRINCIPAL BENCH - COURT NO.III**

Service Tax Appeal No.52949 of 2019

[Arising out of Order-in-Appeal No.248 & 249(CRM)/CE/JPR/2019 dated 9.9.2019 passed by the Commissioner (Appeals), Central Excise & CGST, Jaipur]

M/s. Siegwark India Pvt. Ltd.
7-8 K.M. Stone Bhiwandi-Alwar Road,
P.O. Khizuriwas, Bhiwadi,
Distt.-Alwar-301 019.

Appellant

VERSUS

Commissioner of CGST,
Commissionerate Alwar,
Block-A, Surya Nagar,
ALWAR-301 001.

Respondent

AND

Service Tax Appeal No.52950 of 2019

[Arising out of Order-in-Appeal No.248 & 249(CRM)/CE/JPR/2019 dated 9.9.2019 passed by the Commissioner (Appeals), Central Excise & CGST, Jaipur]

M/s. Siegwark India Pvt. Ltd.
7-8 K.M. Stone Bhiwandi-Alwar Road,
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Appellant

VERSUS

Commissioner of CGST,
Commissionerate Alwar,
Block-A, Surya Nagar,
ALWAR-301 001.

Respondent

APPEARANCE:

Shri S.C. Vaidyanathan and Ms. Mehak Mehra, Advocates for the appellant.
Shri Rajeev Kapoor, Authorised Representative for the respondent.

CORAM:

HON'BLE MS. BINU TAMTA, MEMBER (JUDICIAL)

HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

FINAL ORDER NOS. 50426-50427/2025

DATE OF HEARING:07.03.2025

DATE OF DECISION:21.03.2025

BINU TAMTA:

1. The main issue in the present matter relates to the non-reversal of proportionate Cenvat credit availed on common input

services namely, Chartered Accountant services, telephone services, Legal services, etc., used in relation to Redemption of Mutual Funds by considering it to be "Trading of Goods" which is an exempted service in terms of Section 66D(e) of the Finance Act¹. Absolutely, similar issue was considered in the case of the appellant for the period from April, 2015-16 by the Tribunal by its Final Order No.58747/2024 dated 01.10.2024. The issue was decided in favour of the appellant referring to the earlier decisions of the Tribunal in the following cases:-

- (1) **M/s.Ambuja Cements Ltd. Vs. CC, CE & GST, Nagpur²**
- (2) **Ace Creative Learning Pvt. Ltd. Vs. CCT, Bengaluru South Commissionerate³**
- (3) **M/s. Tata Sons Ltd. Vs. CST-I, Mumbai(Vice versa)⁴**
- (4) **Space Matrix Design Consultants Pvt. Ltd. Vs. CCT, Bangalore North⁵**

2. The relevant observations of the Tribunal in the case of the appellant in the earlier order are as under:-

“19. In view of the aforesaid decisions of the Tribunal, it has to be held that the activity of subscription and redemption of the units of mutual funds cannot be said to be an activity of sale and purchase of the securities. It would, therefore, not be an activity relating to trading and securities. The activity undertaken by the appellant would, therefore, not be an exempted service in terms of section 66D(e) of the Finance Act and proportionate reversal of credit was not required to be made.

20. Even otherwise, the activity of investment in mutual fund cannot be termed as ‘service’ under the Finance Act. For an activity to fall under the ambit of ‘exempted service’ under rule 2(e) of the Credit Rules, the activity has to first qualify as a ‘service’. Section 65B(44) of the Finance Act stipulates that ‘service’ means any activity carried out by a person for another for consideration, and includes a declared service, but excludes a transfer of title in goods or immovable property by way of sale or gift. Thus, there has to be a service provider who provides a service to the recipient in lieu of

¹ Finance Act

² 2023 (5) TMI 806-CESTAT-Mumbai

³ 2021(4) TMI 687 –CESTAT-Bangalore

⁴ 2022(11) TMI 325-CESTAT-Mumbai

⁵ 2019 (4) TMI 1599 –CESTAT-Bangalore.

consideration. **The department has failed to substantiate that investment in mutual fund by the appellant involves a ‘service’ rendered by a service provider to a service recipient. Thus, the activity undertaken by the appellant would not amount to ‘service’ under section 65B(44) of the Finance Act.”**

3. In the present appeal by the impugned orders⁶, the Commissioner (Appeals) confirmed the two order-in-originals dated 31.08.2019 and 24.09.2019 covering the show cause notice dated 10.04.2018 for the period July, 2012 to April, 2015 and show cause notice dated 27.11.2018 for the period April, 2016 to June, 2017. The facts and the issue being identical to the decisions referred to above, the principle of law enunciated is that the subscription and redemption of liquid mutual fund units cannot be termed as “trading of goods” and, therefore, do not fall under the exempted services under Section 66D(e) of the Finance Act. The activity to classify as “exempted service” under Rule 2(e) of the Cenvat Credit Rules, 2004 needs to be qualified as “service”, as defined under Section 65B (44) of the Act, meaning thereby that service is an activity carried out by a person for another for consideration and includes a ‘declared service’ but excludes a transfer of title in goods or immovable property by way of sale, gift, etc. As noted in the above decisions, the activity of investment in mutual funds does not involve the presence of a service rendered by a service provider towards a recipient of service for some consideration. Following the principles in the

⁶ Order-in-Appeal No.248(CRM)/CE/JPR/2019 dated 9.9.2019 &249(CRM)/CE/JPR/2019 dated 9.9.2019

case of the appellant, the activity undertaken would not amount to service 'service' in terms of Section 65B(44) of the Act.

4. As the issue stands settled in view of the earlier decision hence the impugned orders deserve to be set aside. Since the issue has been decided on merits in favour of the appellant, the other contentions raised by the appellant are not necessary to be gone into. The appeals are, accordingly allowed.

[Order pronounced on 21st March, 2025]

(Binu Tamta)
Member (Judicial)

(Hemambika R. Priya)
Member (Technical)

Ckp.