

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. – III

Service Tax Appeal No. 52382 of 2019

[Arising out of Order-in-Appeal No. 607 (CRM) ST/JDR/2019 dated 24.06.2019 passed by the Commissioner of Central Excise & Central Goods and Service Tax (Appeals), Jodhpur]

M/s. Career Point Limited

112-B, Chambal Garden Road,
Shakti Nagar, Kota,
Rajasthan - 324009

...Appellant

VERSUS

**Commissioner of Central Goods
& Service Tax, Excise and Customs,
Udaipur**

142-B, Sector-11, Hiran Magri,
Udaipur, Rajasthan - 313001

...Respondent

APPEARANCE:

Shri B.L. Narsimhan and Ms. Daliya Singh, Advocates for the Appellant
Shri Aejaz Ahmad, Authorized Representative for the Respondent

CORAM:

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

DATE OF HEARING: 30.04.2025
DATE OF DECISION: **06.05.2025**

FINAL ORDER No. 50601/2025

BINU TAMTA

M/s Career Point Ltd.¹ has challenged the Order in Appeal No. dated 24.06.2019, confirming the demand of recovery of CENVAT Credit of Rs. 87,76,820/- under Rule 6(3) of CENVAT Credit Rules, 2004² read with section 73(1) of the Finance Act, 1994³, along with interest and penalty of equivalent amount

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1. the appellant
 2. CCR, 2004
 3. the Act

under rule 15 (3) of CCR read with section 78 of Act for the period 2012– 2013 to 2016–2017, treat the investment in mutual funds as “Trading of Goods” in terms of section 66D(e)of the Act.

2. Briefly stated, the appellant is engaged in providing Manpower Recruitment/Supply Agency Service, Commercial Training, Coaching, Renting of Immovable property, Works Contract Service, Legal Consultancy Services, other taxable services. The appellant took credit of service tax paid on various input services which are used in renting the aforesaid outward services. The appellant as part of its business practice had also invested in surplus funds in various mutual funds by way of subscription to mutual funds units. The appellant redeemed such units as and when the additional funds were needed to meet the business requirements. Show cause notice dated 14.09.2017 was issued to the appellant alleging that the activity of investment in mutual funds is akin to “trading of goods” in the Negative List and hence is an exempt service as defined in Rule 2(e) of CCR read with section 66D(e) of the Act. Therefore, CENVAT credit attributable to input services which were used commonly in relation to provision of taxable services as well as trading of goods, is not admissible, and as the appellant did not maintain separate accounts in relation to these two kind of services in terms of rule 6(2), they are liable to pay an amount equal to 6%/7% of the value of exempted services under rule 6(3) of the CCR. The adjudicating authority vide order dated 4.10.2018, confirmed the demand under SCN. The appeal filed by the appellant has been dismissed by the impugned order.

Being aggrieved, the appellant has preferred the present appeal before this Tribunal.

3. The submission of the learned Counsel for the appellant is that the issue relating to non-reversal of proportionate credit availed on common input services used in relation to redemption of mutual funds by considering it to be trading of goods which is an exempted service under section 66D(e) of the Act is no longer res-integra and has been decided in favour of the appellant in series of decisions by the Tribunal, which are as under:

(i) Siegwark India Pvt Ltd Vs. Commissioner of CGST⁴

(ii) Siegwark India Pvt. Ltd. Vs. Commissioner of CGST⁵

(iii) Siegwark India Pvt. Ltd. Vs. Commissioner, Central Goods & Service Tax, Commissionerate⁶

(iv) Ambuja Cements Ltd. Vs. Commissioner of Customs, Central Excise & GST, Nagpur⁷

(v) Finolex Cables Ltd. Vs Commissioner of Central Excise and Service Tax, Pune-I⁸

(vi) Ace Creative Learning Pvt Ltd Vs. Commissioner of Central Tax, Bengaluru South GST Commissionerate⁹

4. Final Order No. 50426-50427/2025 dated 21.03.2025

5. Service Tax Appeal No. 52950 of 2019 dated 21.03.2025

6. Final Order No. 58747/2024 dated 01.10.2024.

7. Final Order No. 85393/2023 dated 13.01.2023

8. Final Order No. A/87423/2024 dated 25.11.2024 in Excise Appeal No. 85323 of 2016

9. Final Order No. 20105/2021 dated 15.04.2021

(vii) Tata Sons Ltd. Vs. Commissioner of Service Tax, Mumbai (Vice-Versa)¹⁰

(viii) Space Matrix Design Consultants Pvt. Ltd. Vs. Commissioner of Central Tax, Bangalore North¹¹

(ix) Instakart Services Pvt. Ltd. Vs. Commissioner of Central Tax, Bengaluru¹²

(x) Ponni Sugars Erode Ltd. Vs. The Commissioner of GST & Central Excise¹³

4. The relevant observations of the Tribunal in the case of **Siegwerk India Pvt Ltd versus Commissioner of CGST, Final Order No. 58747/2024, dated 1.10.2024** is quoted below:

"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

10. Final Order No. 86042-86043/2022 dated 01.11.2022
11. Final Order No. 20363/2019 dated 25.05.2019
12. Final Order No. 20415/2024 dated 13.03.2024
13. Final Order No. 40497-40498/2024 dated 24.04.2024

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 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."**

5. 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 enunciated in various decisions, the activity undertaken would not amount to "service" in terms of Section 65B(44) of the Act.

6. As the issue stands settled in view of the earlier decisions hence the impugned order deserves 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 appeal is, accordingly, allowed.

[Order pronounced in the open court on **06.05.2025**]

(BINU TAMTA)
MEMBER (JUDICIAL)

(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)

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