

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
NEW DELHI**

**Service Tax Appeal No. 54709 of 2023**

(Arising out of Order-in-Appeal No.36/ST/DLH/2022 dated 16.12.2022 passed by the Commissioner (Appeals-I), Central Excise & GST, Delhi)

**Indiamart Intermesh Ltd.**

**.....Appellant**

1<sup>st</sup> Floor, 29, Netaji Subhash Marg, Daryaganj,  
Delhi

*VERSUS*

**Commissioner of CGST & Central Excise,  
Delhi**

**.....Respondent**

Room no. 134, C.R. Bldg, IP Estate,  
New Delhi

**APPEARANCE:**

Shri Atul Gupta, Chartered Accountant for the appellant  
Shri Aejaz Ahmad, Authorised Representative for the respondent

**CORAM:**

**HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)  
HON'BLE SHRI P V SUBBA RAO, MEMBER (TECHNICAL)**

**FINAL ORDER No:50904/2026**

DATE OF HEARING: 13.04.2026  
DATE OF DECISION: 15.05.2026

**Per: AJAY SHARMA**

The present appeal has been filed by the Appellant M/s Indiamart Intermesh Ltd., challenging the Order-in-Appeal dated 16.12.2022 passed by the learned Commissioner (Appeals), Central Excise, Delhi, whereby the Commissioner (Appeals) rejected the appeal filed by the Appellant and confirmed the

Order-in-Original dated 28.2.2022 passed by the Adjudicating Authority.

2. The primary question of law arising for determination in this appeal is whether the investment in mutual fund units by the Appellant constitutes *trading* falling within the negative list of services under Section 66D(e) of the Finance Act, 1994, and consequently whether such activity amounts to an outward supply of an "*exempted service*" within the meaning of Rule 2(e) of the CENVAT Credit Rules, 2004, so as to render the Appellant liable to reverse the CENVAT Credit availed on common input services under Rule 6(3) of the said Rules, together with interest and penalty?

3. The Appellant is engaged in the business of providing an online business-to-business (B2B) marketplace platform that connects buyers with suppliers. The primary output service rendered by the Appellant is the '*Selling of Space or Time Slots for Advertisement*', which involves the development, hosting, and promotion of web catalogues made available to various vendors for the display of their products on the Appellant's website. In the course of this business, the Appellant was availing CENVAT Credit on common input services, including but not limited to Legal and Professional Services, Communication Services, Manpower Services, Rent, Maintenance Services, Training, and Director Sitting Fees.

4. During an audit of the Appellant's records for the period from Financial Year 2013-14 to 30.6.2017, the Revenue found that the Appellant had, in addition to providing taxable services, also received income from the sale of mutual fund units, which was reflected in the Appellant's financial statements under the sub-heading '*Net Gain from the Sale of Current Investments*'. The Revenue formed the view that this activity constituted *trading in mutual funds*, an exempt service, and that the Appellant, having availed CENVAT Credit on input services common to both taxable and exempted activities without maintaining separate books of accounts as required under Rule 6 of the CENVAT Credit Rules, 2004, was liable to reverse the CENVAT Credit so availed. Accordingly, a Show Cause Notice dated 8.4.2019 was issued to the Appellant invoking the extended period of limitation to show cause as to why:-

"(i) Extended period of limitation as provided under proviso to Section 73(1) of the Act should not be invoked for demanding the amount under Rule 6(3) read with Rule 14 of the CCR, 2004 for an extended period of 5 years from the relevant date;

(ii) Amount of 1,53,77,628/- as detailed in Table in para 6 above, towards exempted service should not be demanded and recovered from them under Section 73(1) of the Act read with Rule 6(3)(i) and Rule 14 of the CCR, 2004;

(iii) Interest at the appropriate rate from the due date of the payment of Service Tax to the actual payment, should not be demanded and recovered from Indiamart as stipulated under Section 75 of the Act read with Rule 14 of the CCR, 2004;

(iv) Penalty under Section 78(1) of the Act read with Rule 15 (3) of CCR, 2004 should not be imposed upon Indianmart for taking and utilizing the inadmissible CENVAT Credit deliberately by suppressing the material facts from the department with intent to evade payment of service tax;

(v) Penalty under Section 77 of the Act should not be imposed upon Indianmart for contravention of Section 70 of the Act for not filing their periodical ST-3 returns in a correct and proper manner during the relevant period.”

5. The said Show Cause Notice culminated in the Order-in-Original dated 28.2.2022, whereby the Adjudicating Authority confirmed the demand of service tax amounting to Rs. 1,53,77,628/- (Rupees One Crore Fifty-Three Lakhs Seventy-Seven Thousand Six Hundred and Twenty-Eight Only), along with an equal penalty under the relevant provisions of the Finance Act, 1994, and additionally imposed a separate penalty of Rs. 10,000/-. The appeal preferred by the Appellant before the Commissioner (Appeals) was also dismissed by the impugned Order dated 16.12.2022.

6. The case of the Revenue, as urged before us, is that the purchase and redemption of mutual fund units constitutes '*trading of goods*' falling within the negative list under Section 66D(e) of the Finance Act, 1994, and that the Appellant, by engaging in this activity, was providing an '*exempted service*' as defined under Rule 2(e) of the CENVAT Credit Rules, 2004. Consequently, the failure of the Appellant to maintain separate accounts for the receipt, consumption, and inventory of input services attributable to taxable and exempted activities rendered the Appellant liable to reverse the CENVAT Credit in terms of Rule 6(3) of the said Rules.

7. Per contra, the learned Counsel for the Appellant submitted that the mutual fund units in question were acquired solely for the purpose of making investments out of the Appellant's surplus funds, and that the same were accordingly reflected under the head 'Investments' in the financial statements, and not as stock-in-trade. It was further contended that the Appellant is not engaged in the business of trading in mutual funds, nor does the Appellant hold any licence from the Securities and Exchange Board of India (SEBI) to trade in mutual funds. Upon redemption, mutual fund units are simply extinguished and revert to the issuing fund house and there is no transfer of title to any third party. Accordingly, the activity of investment in and redemption of mutual fund units does not constitute an '*exempted service*' within the meaning of Rule 2(e) of the CENVAT Credit Rules, 2004, and no question of reversal of CENVAT Credit arises.

8. We have heard the rival submissions advanced by the learned Counsel for the Appellant and the learned Authorised Representative for the Revenue, and have carefully perused the entire case record, including the written submissions, judgments, and precedents placed on record by both parties.

9. At the outset, we note that the issue involved in this appeal is no longer *res integra* and stands concluded by a series of authoritative decisions of this Tribunal. One such decision, namely *Ace Creative Learning Pvt. Ltd. v. Commissioner of*

*Central Tax, Bengaluru South* [2021 (51) G.S.T.L. 393 (Tri.-Bangalore)], had in fact been placed before the learned Commissioner (Appeals). Although the Commissioner (Appeals) made a note of the said decision in the record of the personal hearing, he conspicuously failed to appreciate or record any finding thereon. In our considered view, this constitutes a clear violation of the principle of judicial discipline, which requires every adjudicating or appellate authority to consciously apply and follow binding or relevant precedents. Had the Commissioner (Appeals) duly considered that decision, the present appeal would have been avoided.

10. More recently, an identical issue fell for consideration before the Principal Bench of this Tribunal in *M/s Siegwark India Pvt. Ltd. v. Commissioner, CGST; 2024(10)TMI 220-CESTAT, New Delhi*. The Tribunal, after an exhaustive examination of the relevant statutory provisions and the nature of mutual fund transactions, unequivocally held that the redemption of mutual fund units does not constitute “trading of goods” and cannot be treated as an “exempted service” requiring reversal of CENVAT Credit. The reasoning of the Tribunal was that upon redemption, mutual fund units simply cease to exist rather than being transferred to any third party and therefore no transfer of title, a sine qua non of “trading”, takes place. The Tribunal further held that the extended period of limitation was inapplicable and the mere fact that a discrepancy surfaced through an audit does not, by itself, justify invocation of the five-year extended period

under the proviso to Section 73(1) *ibid*. Accordingly the demand, interest, and penalties in that matter were set aside in their entirety.

11. We are in respectful agreement with the reasoning in the aforesaid decisions. As a threshold, before any activity can be classified as an '*exempted service*' under Rule 2(e) of the CENVAT Credit Rules, 2004, it must first constitute a "*service*" within the meaning of Section 65B(44) *ibid*. A "*service*" is defined as an activity carried out by one person for another for a consideration. The very definition of "*service*" is premised upon the existence of two distinct parties, namely a service provider and a service recipient, and the rendition of an activity by the former for the latter for consideration. The mere investment in mutual fund units by the Appellant and the subsequent redemption of those units does not involve the rendering of any activity by the Appellant for any other person for consideration. The Revenue has entirely failed to identify any other party to whom the Appellant is said to have rendered a service. Accordingly, the activity in question does not amount to a "*service*" u/s.65B(44) *ibid*, and it follows inexorably that it cannot be classified as an "*exempted service*" u/r. 2(e) of the CENVAT Credit Rules, 2004.

12. For the foregoing reasons, we hold that the subscription to and redemption of mutual fund units by the Appellant does not constitute '*trading of goods*' within the negative list under

Section 66D(e) of the Finance Act, 1994, and does not amount to an “*exempted service*” within the meaning of Rule 2(e) of the CENVAT Credit Rules, 2004. Consequently, no obligation arose on the part of the Appellant to maintain separate books of accounts under Rule 6 of the said Rules, and no liability for reversal of CENVAT Credit, interest, or penalty is sustainable in law.

13. In the result, the impugned Order is set aside. The appeal is allowed with consequential relief, if any, in accordance with law.

(Pronounced in open Court on **15.05.2026**)

**(Ajay Sharma)**  
**Member (Judicial)**

**(P V Subba Rao)**  
**Member (Technical)**

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