

# TAX FLASH NEWS

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## No reversal of CENVAT credit required for statutory investments mandated under IRDA – CESTAT, Hyderabad

### Background

Customs, Excise and Service Tax Appellate Tribunal, Regional Bench at Hyderabad<sup>1</sup> had recently held that activity of mandatory investment in securities is not exempt service for the purpose of determining reversal under the CENVAT Credit Rules.

### Facts of the case

Shriram Life Insurance Company Ltd. (appellant) is an Indian insurance company licensed by Insurance Regulatory Development Authority of India (IRDAI) to carry on life insurance policies. The Insurance Act, 1938 mandates an insurance company to invest in approved securities, accordingly the appellant had made investments.

The issue under contention was with respect to the fact that whether mandatory investments in securities can be considered as an exempt services covered under “trading of goods (securities)” warranting reversal of CENVAT Credit under Rule 6 of the CENVAT Credit Rules.

It was contended by the revenue that activity of investment in securities been a trading activity would qualify as exempted services and the same has also been confirmed by the High Court of Madras in the case of Ruchika Global Interlinks<sup>2</sup>.

Whereas the appellant had contended that life insurance companies provide services relating to risk cover and managing investment for the policy holders. The funds available with the insurer which are nomenclated as “controlled funds” have to be necessarily invested in specified investment instrument including securities. The premium attributable to risk cover as also the fees for managing investment of the policy holder are subjected to tax. Since the entire transaction is subjected to levy of service tax, the activity of investments in securities cannot be said to be exempted services.

### CESTAT Order

Investments in securities are undertaken as a statutory obligation of rendition of life insurance services. The premium recovered by the appellant towards life insurance includes premium towards management of investment on which appropriate tax has been discharged. Which would effectively mean that investment in securities is part of taxable services.

### Our comments

It is very important and relevant judgment for entire insurance sector, as revenue have been demanding reversal of CENVAT credit on the mandatory investments made by insurance company alleging that such investments is akin to the trading in securities.

<sup>1</sup> Shriram Life Insurance Company Limited order number A/30168 – 30169/2019 DATED 7 February 2019

<sup>2</sup> Ruchika Global Interlinks [2017 (5) G.S.T.L. 225(Mad)]

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