

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 2

Service Tax Appeal No. 25906 of 2013

(Arising out of Order-in-Original No.148/2012 ST (Commr). dated 21.12.2012 passed by the Commissioner of Central Excise and Service Tax, Bangalore.)

HDFC Life Insurance Company Ltd.

Lodha Excelus, 13th Floor, Apollo Mills
Compound, N.M. Joshi Marg Mahalaxmi
Mumbai - 400 011.

Appellant(s)

VERSUS

**Commissioner of Central Excise,
Customs and Service Tax,**

100 Ft Ring Road, JSS Towers,
Banashankari-III Stage,
Bangalore - 560 085.

Respondent(s)

WITH

Service Tax Appeal No. 25907 of 2013

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Bangalore-560 085.

Respondent(s)

APPEARANCE:

Mr. S.S. Gupta, Chartered Accountant for the Appellant.
Shri M.A. Jithendra, Asst. Commissioner (AR) for the Respondent.

CORAM:

**HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)
HON'BLE MRS. R. BHAGYA DEVI, MEMBER (TECHNICAL)**

FINAL ORDER NO. 22080-22081 /2025

DATE OF HEARING: 17.11.2025

DATE OF DECISION: 17.11.2025

PER: R. BHAGYA DEVI

These two Appeal Nos. ST/25906 and 25907/2013 are filed by the appellant M/s. HDFC Life Insurance Company Ltd. (earlier known as M/s. ING Vysya Life Insurance Company Ltd.) against Order-in-Original No. 148/2012-ST (Commr.) dated 21.12.2012 and Order-in-Original No. 149/2012-ST (Commr.) dated 14.12.2012 passed by the Commissioner of Central Excise and Service tax, LTU, Bangalore respectively.

2. Briefly the facts are that the appellant was engaged in the business of providing insurance services and had discharged service tax after availing eligible cenvat credit, however, show-cause notices were issued demanding utilization of credit in excess of 20% of the amount of service tax payable on taxable output service in contravention of Rule 6(3)(c) of the Cenvat Credit Rules, 2004 issued to them. The Commissioner in the impugned orders after taking into consideration the utilisation of credit, observes that the appellant had not utilized credit in excess of 20% of the amount of service tax payable on taxable output services for the period from October 2006 to March 2007 in Appeal No.ST/25906/2013 and from April 2007 to March 2008 in Appeal No. ST/25907/2013 and accordingly, dropped the proceedings initiated in the above show-cause notices. However, the appellant was still aggrieved by the said order and filed these appeals before us.

3. The Learned Chartered Accountant (CA) submits that the appellant is engaged in providing Life Insurance Services and

were discharging service tax at the rate of 1% on the gross amount of premium charged by them. It is the claim of the appellant that since they are not providing any exempted services as defined under Rule 2(e) of Cenvat Credit Rules, 2004, credit cannot be limited to 20% as is held by the Commissioner in the impugned orders. Relied on the decisions of this Tribunal in their own case in a similar set of fact as reported at **2023 (12) TMI 181 CESTAT-Bangalore** and in the case of **HDFC Standard Life Insurance Co. Ltd. and Birla Sun Life Insurance Company Ltd. Vs. Commissioner of Central Excise, Mumbai: 2020 (10) TMI 578 CESTAT-Mumbai.**

4. The Learned Authorized Representative (AR) for the Revenue submitted that the show-cause notices were issued only to deny the excess cenvat credit utilized by the appellant and since the Commissioner in the impugned order holds that there was no excess credit availed by the appellant and it was restricted to 20% of the tax payable, the demands were dropped. Therefore, nothing survives and the appeals are itself infructuous.

5. Heard both sides. It is relevant to examine Rule 6(3)(c) of Cenvat Credit Rules, 2004, which is reproduced below:

Obligation of manufacturer of dutiable and exempted goods and provider of taxable and exempted services

6(3) Notwithstanding anything contained in sub-rules(1) and (2), the manufacturer or the provider of output service, opting not to maintain separate accounts, shall follow either of the following conditions, as applicable to him, namely:-

(c) the provider of output service shall utilise credit to extent of an amount not exceeding twenty per cent of the amount of service tax payable on taxable output service.

The question, therefore, arises whether the appellant is manufacturing dutiable and exempted goods to attract Rule 6(3)(c) of Cenvat Credit Rules, 2004. The Commissioner in the impugned orders has dropped the proceedings on the ground that the appellant had availed credit only to the extent of 20% of the amount of service tax payable on the taxable output services. The grievance of the appellant is that they are eligible for 100% credit since they do not fall under the provisions of Rule 6 of the Cenvat Credit Rules, 2004 to attract restriction of cenvat credit as per Rule 6(3)(c) of Cenvat Credit Rules, 2004.

6. The Commissioner in the impugned orders has observed as follows:

“10.2.1 The above submissions of M/s. ING Vysya are not acceptable for the reasons that with effect from 01.05.2011, the words 'in relation to the risk cover to life insurance' used in the definition of 'life insurance' service as defined in Section 65(105)(zx) of the Finance Act, 1994 stand deleted and thus, insurance companies providing life insurance were till 01.05.2011 required to pay service tax only in relation to the risk cover to life insurance and thus, the services relating to investment / savings, which were not chargeable to service tax and have since been charged with effect from 01.05.2011, were exempted service till 01.05.2011.”

The Commissioner has also relied on the CBEC Circular F. No.354/9/2011 TRU dated 12th July 2011 to deny the benefit of 100% credit. This issue is no longer *res integra* inasmuch as various Tribunals have categorically held that since the appellant is paying service tax at the rate of 1% on the gross amount of premium charged, the services rendered by the appellant cannot

be considered as exempted services as defined under Rule 2(e) of the Cenvat Credit Rules, 2004.

7. We find that this issue is no longer *res integra* inasmuch as this Tribunal vide Final Order No.21325 to 21327/2023 dated 4.12.2023 in appellant's own case in a similar set of facts, has observed as follows:

"11. Heard both sides and perused the records. The short question involved in the present appeal for determination is: whether the services provided by the appellant viz., Life Insurance Service and Management of Investment under ULIP Plan services for which the premium collected and a portion of the same is attributable to risk coverage component falls within the definition of taxable service and savings investment component of the premium collected does not fall under the definition of taxable service, hence exempted service; accordingly the CENVAT credit availed on input services be considered as used in providing also exempted services, hence provisions of Rule 6(3)(i) of CENVAT Credit Rules, 2004 is attracted, in absence of maintenance of separate records for exempted and taxable services.

12. The learned advocate for the appellant has submitted that they are providing only the life insurance service and discharging 1% of the value of the premium in accordance with Rule 6(7A) of the Service Tax Rules, 1994. They have submitted that a portion of the value of the premium cannot be segregated, when the same is earmarked for the savings/investment component and be considered as an exempted service under the definition of exempted service prescribed under Rule 2(e) of CCR,2004.

13. We find that this issue is no more *res integra*. It has been considered by the Tribunal in the case of **CCE & ST, LTU vs. Max New York Life Insurance Company Ltd.: 2018-VIL-126-CESTAT-DEL-ST**. This Tribunal observed as:

"8. Considering the appeal by the Revenue we have examined the tax liability for the services rendered by the appellant-assessee. The appellant-assessee collects ULIP Insurance premium which is essentially an insurance policy having Investment as well as risk cover, The appellant assessee is discharging Service Tax on the portion of amount allocated to the risk cover under Life Insurance Service. A substantial portion of premium collected under ULIP is Invested in various financial Instruments, The Appellant-assessee is managing such Investment on the behalf of the Insured. For managing such Investment and also managing the policy the appellant assessee allocates some portion of the premium towards administrative expenses etc. Service Tax is paid on such administrative charges under the category of "Management of Investment Service". Admittedly, substantial portion of the premium is Invested in various financial Instruments. The revenue holds that that portion of Invested amount should be treated as value of exempted services. The Id. AR referred to Rule 2(e) of Cenvat Credit Rules, 2004 to state that exempted service shall Include service on which no tax is payable. We note that in the present arrangement the appellant assessee is providing Service of ULIP for the insured. For such service, the tax is paid. There is no separate identifiable service attributable to Investment portion of the premium in the present case. In other words the premium amount received was Invested substantially and for managing such investment, administration charges are collected and Service Tax paid. No other service, least of all exempted service, could be identified in such arrangement. Hence, we are in agreement with the method of calculation adopted by the Original Authority in arriving at the portion of exempted service/ taxable service. We have no reason to interfere with the said findings."

14. Further, the Tribunal in the case of **HDFC Standard Life Insurance Company Limited and Birla Sun Life Insurance Company Limited Vs. CCE, Mumbai: 2020 (10) TMI 578 (CESTAT-Mumbai)**; followed subsequently in the case of **Life Insurance Corporation of India:**

2020 (10) TMI 580 (CESTAT-Mum) expresses the same view observing that the portion of the premium earmarked for savings(investment) is not an exempted service.”

8. In view of the above, we do not find any reason to sustain the impugned orders. Appeals are allowed.

(Operative portion of the order was pronounced
in Open Court on conclusion of hearing.)

(P.A. AUGUSTIAN)
MEMBER (JUDICIAL)

(R. BHAGYA DEVI)
MEMBER (TECHNICAL)

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