


GUJARAT AUTHORITY FOR ADVANCE RULING GOODS AND SERVICES TAX D/5, RAJYA KAR BHAVAN, ASHRAM ROAD, AHMEDABAD – 380 009.	
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ADVANCE RULING NO. GUJ/GAAR/R/2025/09
(IN APPLICATION NO. Advance Ruling/SGST& CGST/2024/AR/08)

Date: 25.03.2025

Name and address of the applicant	:	M/s. Zydus Lifesciences Ltd., Zydus Corporate Park, Scheme No. 63, Survey No. 536, Khoraj (Gandinagar), Nr. Vaishnadevi Circle, SG Highway, Ahmedabad 382 481.
GSTIN of the applicant	:	24AAACC6253G1ZZ
Jurisdiction Office	:	Office of the Assistant Commissioner of State Tax, Unit-11, Range –III, Division – I, Ahmedabad
Date of application	:	18.04.2024
Clause(s) of Section 97(2) of CGST / GGST Act, 2017, under which the question(s) raised.	:	(d)
Date of Personal Hearing	:	4.12.2024
Present for the applicant	:	Ms Priyanka Kalwani, Advocate, Ms Devanshi Sharma, Advocate, Shri Rashmikant Shah Shri Vaibhav Vahia

Brief facts:

M/s Zydus Lifesciences Ltd., Zydus Corporate Park, Scheme No. 63, Survey No. 536, Khoraj (Gandinagar), Nr. Vaishnadevi Circle, SG Highway, Ahmedabad 382 481 (for short - 'applicant') is engaged in the manufacture, supply & distribution of various pharmaceutical products. The applicant is registered with the department and their registration No. is 24AAACC6253G1ZZ.

2. Briefly, the details as submitted by the applicant are as under:

- that the applicant avails ITC in terms of sections 16 & 17 of the CGST Act, 2017;
- that the applicant, to ensure optimum utilization of surplus cash/idle funds lying in excess of their fixed & working capital requirements, invests the same by subscribing to units of various mutual funds floated by Asset Management Company [AMC];
- that these units are either purchased directly from the fund house or through an authorized broker;
- that when the need for liquid cash arises, the applicant redeems the mutual fund either through the fund house or authorized brokers;
- that units of mutual funds are not transferred/sold to other buyers unlike equity shares but are returned back to the Asset Management Company;

- the applicant receives various inputs and input services, which are commonly received towards both taxable supplies as well as the activity of investment & redemption in the mutual fund units;
- that presently the applicant is reversing the proportionate ITC pertaining to common input & input service towards both taxable supplies as well as redemption of mutual funds in terms of section 17(2) read with Rule 42 of CGST Act, 2017.

3. The applicant, however, is of the view that there is no requirement to reverse the ITC availed on receipt of such common inputs & input services in terms of the provisions of section 17(2) of the CGST Act, 2017 read with rule 42 of the CGST Rules, 2017. To substantiate this averment, the applicant has made the following submissions viz

- that in case of mutual fund schemes, investor is only subscribing to the units of the fund and redeeming it; that there is no purchase or sale involved;
- that in terms of section 17(2), *ibid*, ITC to the extent it pertains to 'exempt supplies' needs to be reversed; that section 17(3), *ibid*, provides that value of exempt supply shall include transactions in securities; that 'money & securities' have been kept outside the term of goods & services as defined u/s 2(52), & 2(102), *ibid*, respectively; that redemption of mutual funds cannot be termed as *exempt supply*, having been excluded out of the scope of supply of goods or services & hence section 17(2), will not apply;
- ; that they wish to rely on the case of M/s. L&T ¹, M/s. Bhayana Builders ² and Gypsy Pegasus Ltd ³;
- that the term 'transaction in securities' is not defined; that section 17(3), creates a deeming fiction to include value attributable to transactions in securities in the value of exempt supply; that however the applicant feels that transaction in securities cannot be considered as an exempt supply since securities have been excluded from the scope of both goods and services;
- that in terms of rule 42, the value of 'transaction in securities' shall be 1% of the sale value of securities; that the applicant redeems the mutual fund unit which is distinct from sale & hence the mechanism prescribed would be inapplicable in case of redemption of mutual funds; that they would like to rely on the judgement in the case of Ace Creative Learning P Ltd⁴, M/s. Ambuja Cements Ltd⁵, Modi Sugar Mills⁶, Dilip Kumar & Co⁷;
- that since there is no machinery provision to arrive at the value of exempt supply in case of redemption of mutual fund, the scheme for reversal of ITC fails; that they would like to rely on the judgement in the case of B C Srinivasa Setty⁸, Pushpaman Forgings⁹;
- that they would like to rely on the judgements in the case of Suresh Kumar Bansal¹⁰, Eternit Everest Ltd¹¹, Shabina Abraham¹² wherein it is held that in absence of machinery provisions, levy provision becomes unenforceable.

¹ 2015 (39) STR 913 (SC)

² 2018 (2) TMI 1325 (SC)

³ 2018 (15) GSTL 305 (SC)

⁴ 2021 (4) TMI 687 CESTAT Bang

⁵ 2023 (5) TMI 806 CESTAT Mum

⁶ 1961 AIR 1047

⁷ 2018 (361) ELT 577 SC

⁸ 1981 (2) TMI SC

⁹ 2003 (153) ELT A 89 SC & 2002 (140) EL 490 Tri Mum

¹⁰ 2017 (4) GSTL J 128 SC

¹¹ 1997 (89) ELT 28 Mad

¹² 2015 (322) ELT 372 SC

4. In view of the foregoing, the applicant has sought a ruling on the below mentioned question viz:

“Whether the applicant is eligible to avail ITC of tax paid on common inputs & input services used in relation to the subscription and redemption of mutual funds?”

5. Personal hearing was granted on 04.12.2024, wherein Ms Priyanka Kalwani, Advocate, Ms Devanshi Sharma, Advocate, Shri Rashmikant Shah and Shri Vaibhav Vahia appeared on behalf of the applicant and reiterated the submission already made in the application. They also submitted a compilation of legal provisions & copies of judgements relied upon. The copies of the judgements submitted have already been relied upon other than the below mentioned judgements viz:

- Munjaal Manishbhai Bhatt¹³
- Mohit Minerals P Ltd¹⁴
- M/s. SAL Steel Ltd¹⁵
- Suresh Kumar Bansal & Anuj Goyal¹⁶
- M/s. Cognizant Technology Solutions India P Ltd¹⁷
- M/s. Siegwerk India P Ltd¹⁸
- M/s. Ponni Sugars Erode Ltd¹⁹
- M/s. Instakart Services P Ltd²⁰

Discussion and findings

6. At the outset, we would like to state that the provisions of both the CGST Act and the GGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the GGST Act.

7. We have considered the submissions made by the applicant in their application for advance ruling as well as the submissions made during the course of personal hearing, additional written submissions and oral submissions made during the course of personal hearing. We have also considered the issue involved, the relevant facts & the applicant's submission/interpretation of law in respect of question on which the advance ruling is sought.

¹³ 2022 (5) TMI 397-GHC

¹⁴ 2020 (1) TMI 974-GHC

¹⁵ 2019 9 TMI 1315-GHC

¹⁶ 2016 (6) TMI 192-DHC

¹⁷ 2024 (9) TMI 922-CESTAT Chennai

¹⁸ 2024 (10) TMI 220-CESTAT New Delhi

¹⁹ 2024 (5) TMI 1350 CESTAT Bangalore

²⁰ 2024 (3) TMI 1350 CESTAT Bangalore

8. The short issue involved in the application filed seeking a ruling is whether applicant is eligible to avail ITC on common inputs & input services used in relation to the subscription and redemption of mutual funds.

9. Before dwelling on to the questions on which the applicant has sought ruling, it would be prudent to reproduce the relevant sections, notifications, etc. for ease of understanding viz [relevant extracts]

Central Goods and Services Tax Act, 2017

➤ Section 2. Definitions.-

In this Act, unless the context otherwise requires,-

(52) "goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;

(102) "services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

➤ Section 16. Eligibility and conditions for taking input tax credit.-

(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

➤ Section 17. Apportionment of credit and blocked credits.-

(1) Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

(3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

[Explanation.- For the purposes of this sub-section, the expression "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III,⁴ [except,—

(i) the value of activities or transactions specified in paragraph 5 of the said Schedule; and

(ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule.];]

Central Goods and Services Tax Rules, 2017

➤ **Rule 45. Conditions and restrictions in respect of inputs and capital goods sent to the job worker.-**

Explanation. - For the purposes of this Chapter,-

(1) the expressions "capital goods" shall include "plant and machinery" as defined in the Explanation to section 17;

(2) for determining the value of an exempt supply as referred to in sub-section (3) of section 17-

(a) the value of land and building shall be taken as the same as adopted for the purpose of paying stamp duty; and

(b) the value of security shall be taken as one per cent. of the sale value of such security.

[emphasis supplied]

10. Broadly, in terms of sections 16 and 17 of the CGST Act, 2017, every registered person is entitled to take credit of ITC on any supply of goods or services or both used or intended to be used in the course or furtherance of business subject to the prescribed conditions and restrictions. Where the goods or services or both are used by the said registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax, as is attributable to the purposes of his business.

11. The facts have already been mentioned in detail *supra* & for brevity, it is not being repeated. However, to recap, the applicant utilizes the surplus cash/idle funds, in excess of their fixed & working capital requirements, by subscribing to units of various mutual funds floated by Asset Management Company. As and when there is a need for liquid cash, the applicant redeems the mutual fund. The applicant receives various inputs and input services, which are commonly received towards both taxable supplies as well as the activity of investment & redemption in the mutual fund units.

12. The applicant's contention is that though presently they are reversing the proportionate ITC pertaining to common input & input service towards both taxable supplies as well as redemption of mutual funds in terms of section 17(2)

read with Rule 42 of CGST Act, 2017, it is their belief, that they are not required to reverse the ITC.

13. The applicant's primary averment is that 'money & securities' are neither goods nor services; that redemption of mutual fund cannot be termed as *exempt supply*, having been excluded out of the scope of supply of *goods* or *services*.

14. The definition of goods and services, under section 2(52) and (102), *ibid*, is reproduced *supra*. Now, securities, include units under mutual fund scheme in terms of section 2(h)(id) of the Securities Contracts (Regulation) Act, 1956. Going through the definition reveals that the term *goods* and *services* as defined *supra* excludes securities.

15. The applicant's next contention is that since the securities are neither goods nor services, the redemption of mutual funds cannot be termed as exempt supply; that for a supply to qualify as an exempt supply, firstly it must fall within the scope of 'supply'.

16. A conjoint reading of sections 2(47), which defines exempt supply, 2(78) which defines non taxable supply and section 7 which defines supply, leads us to a conclusion, that securities not being goods or services, would not fall under the ambit of exempt supply.

17. Interestingly, however, in the submissions the applicant also states as under:

5.2 The expression 'transactions in securities' has not been defied under GST law. However, it appears that the phrase 'transactions in securities' is broad and may include creation, issue, sale, purchase, exchange, redemption and extinguishment of shares or debentures.

5.3 At this juncture, it is pertinent to note that Section 17(3) does not state that transactions in securities is itself an exempt supply, rather it only creates a deemng fiction to include the value attributable to transactions in securities in the value of exempt supply. As stated earlier, 'securities' have been excluded from the scope of both 'goods' and 'services' as defined by the CGST Act & therefore, a transaction in securities cannot be considered an exempt supply."

The applicant concedes that u/s 17(3), while computing the value in terms of section 17(2), the value of transactions in securities is to be included, in terms of the deeming fiction.

18. However, the applicant's contention is that though the value of 'transaction in securities' shall be 1% of the **sale** value of securities, [in terms of the explanation reproduced *supra* which deals with the value to be adopted for such security], since the applicant redeems the mutual fund unit, the activity cannot be equated with sale of securities, owing to the fact that redemption is distinct from sale. The thrust of the contention of the applicant being that the mechanism therefore, prescribed pertains to sale value of securities would be inapplicable in case of redemption of mutual funds. The applicant while agreeing that the Act and the rules made thereunder provides for including the value of transactions in securities while computing the exempt supply, is only on a technical aspect stating that redemption of mutual fund is not akin to sale value of transactions; that since there is no machinery provision to arrive at the value of exempt supply in case of redemption of mutual fund, the scheme for reversal of ITC fails.

19. We do not agree with the averment owing to the fact that in terms of section 16, *prima facie*, the applicant is not entitled to take credit of ITC charged on any supply of goods or services or both which are not used or intended to be used in the course of furtherance of business. This is more so since section 16(1) of CGST Act 2017, reproduced *supra*, states that every registered person shall be entitled to take credit of **ITC charged on any supply of goods or services or both** used on intended to be used in the course or furtherance of business. This is an undisputed fact. Now a conjoint reading of the definitions as provided in section 2(52), 2(101) and (102), *ibid*, states that the activity undertaken, i.e. subscription and redemption of mutual funds by the applicant is neither a supply of goods nor supply of services. Therefore, in terms of section 16(1), we find that the applicant is not eligible for availing ITC of tax paid on subscription and redemption of mutual fund and further required to reverse ITC of tax paid on common inputs and input services used in relation to the subscription and redemption of mutual fund. Now section 17, envisages a situation wherein the goods or services or both that are used partly for effecting taxable supplies and

partly for exempt supplies, the value of exempt supply is to be computed in terms of section 17(3), *ibid* and resort is thereafter to be taken to Rule 42.

20. The term redemption is not defined. The applicant has also not provided anything in this regard except for some dictionary meaning. The resort left is to understand the meaning of the word 'redemption' by applying the common parlance test. While going through the websites of mutual funds, we observe as under:

➤ HDFC MUTUAL FUND

Redemption/Repurchase:

Redemption/Repurchase is the buying back or cancellation of units by a mutual fund. It can happen on maturity or on an on-going basis.

HDFC Asset Management Company Limited (HDFC AMC) is one of India's preferred mutual fund managers. Whether you are an individual looking to invest, re-assessing an investment, or an intermediary, we offer a comprehensive suite of investment options across asset classes and scheme categories. Over the past two decades, we have been delivering simple and accessible investment products to Indian households. Your trust is our benchmark, and we constantly strive to remain ahead of it. Anchored in our culture of transparency, best-in-class governance, and effective risk management, we are taking confident strides towards achieving our vision of becoming the most respected asset manager in the world.

Source : <https://www.hdfcfund.com/learners-corner/beginner/key-terms-concepts>

➤ HDFC BANK

What is Mutual Fund Redemption?

Mutual fund redemption is nothing but the encashment or withdrawal of your investment from a mutual fund scheme. It involves selling your units back to the mutual fund house at the applicable NAV and receiving money in return. You can redeem part of your investment, i.e. a specified number of units or your entire investment corpus, from a mutual fund scheme. If your redemption application is submitted with the fund house or its transfer agency before 3 pm on market trading days, then the same day's NAV is applicable for calculating the redemption amount. Requests after 3 pm get the next day's NAV.

HDFC Bank is a AMFI-registered Mutual Fund Distributor & a Corporate Agent for Insurance products.

Source : <https://www.hdfcbank.com/personal/resources/learning-centre/invest/what-is-mutual-fund-redemption-and-how-to-redeem-mutual-funds>

➤ BAJAJ FINANCE LIMITED

What is mutual fund redemption?

Mutual fund redemption refers to the process where an investor sells their mutual fund units back to the asset management company (AMC). In simple terms, it involves withdrawing units from a mutual fund scheme to receive the returns or principal amount invested.

If you submit your redemption application to the fund house or its transfer agency before 3 pm on market trading days, the same day's NAV will be used to calculate the redemption amount. Requests made after 3 pm will receive the next day's NAV for the calculation.

Disclaimer:

Bajaj Finance Limited ("BFL") is registered with the Association of Mutual Funds in India ("AMFI") as a distributor of third party Mutual Funds (shortly referred as Mutual Funds) with ARN No. 90379.

Source : <https://www.bajajfinserv.in/investments/mutual-fund-redemption#:~:text=Mutual%20fund%20redemption%20refers%20to%20the%20process%20where%20an%20investor,returns%20or%20principal%20amount%20invested.>

➤ Association of Mutual Funds in India

- Association of Mutual Funds in India (AMFI) is a non-profit industry body of the asset management companies (AMCs) of all Mutual Funds in India that are registered with Securities and Exchange Board of India (SEBI).
- AMFI was incorporated on August 22, 1995 under section 25 of the Companies Act, 1956 (corresponding Section 8 of the new Companies Act, 2013), as a non-profit organisation.

NET ASSET VALUE (NAV)

WHAT IS NAV?

HOW IS THE APPLICABLE NAV DETERMINED?

WHAT IS SALE AND REPURCHASE PRICE?

Sale Price

- Sale Price is the price payable per unit by an investor for purchase of units (subscription) and/or switch in from other schemes of a mutual fund.
- SEBI vide circular no. SEBI / IMD / CIR No. 4 / 166236 / 09 dated June 30, 2009 has abolished Entry Load for all mutual fund schemes.
- Hence, during the New Fund Offer (NFO), the Sale Price per unit is at Face Value per unit specified in the respective Scheme Information Document (SID) and Key Information Memorandum (KIM).

During the 'Ongoing Offer' period (i.e., the date from which the scheme re-opens for subscription/redemptions after the closure of the NFO period), the units may be purchased at NAV (i.e., the Sale Price per unit is equivalent to applicable NAV on the date of subscription).

Repurchase/Redemption Price

- The Repurchase/Redemption Price is the price per unit at which a Mutual Fund would repurchase the units (i.e., buy back units from the investor upon redemption of units or switch-out of units to other schemes) of the Mutual Fund by the investors, and includes Exit Load, if / wherever applicable.
- Redemption price is calculated as follows:

$$\text{Redemption Price} = \text{Applicable NAV} \times (1 - \text{Exit Load, if any})$$
 For Example: If the Applicable NAV is ₹10 and Exit Load is 2%, then the Redemption Price will be = ₹10 × (1 - 0.02) = ₹9.80.

It may be noted that an AMC / Trustee has the right to modify existing Exit Load structure and/or to introduce Exit Loads subject to a maximum limit prescribed under the Regulations.

Any change in Load structure will be effective on prospective basis and will not affect the existing mutual fund units in any manner.

As per SEBI (Mutual Funds) Regulations, 1996, in respect of Open-Ended Schemes, Repurchase Price (commonly referred to as Redemption price) shall not be lower than 95% of NAV.

It may be noted that units of Closed-Ended Schemes cannot be Repurchased prematurely.

Source : <https://www.amfiindia.com/investor-corner/knowledge-center/net-asset-value.html#accordion3>

As is evident redemption is nothing but sale of mutual fund by the unit holder back to the Asset Management Company[AMC].

21. Our stand of resorting to common parlance test is substantiated by the order dated 23.9.2021 of the Hon'ble Karnataka High Court in the case of M/s Robo Silicon Pvt. Ltd [STRP No. 24/2019] wherein it was held as under:

14. 'The common parlance test', 'marketability test', popular meaning test' are all tools for interpretation to arrive at a decision on proper classification of a tariff entry. The test, as to what a common man viewing or dealing with the article will understand

it to be, would be relevant. The Hon'ble Apex Court has held that while interpreting the entry for purpose of taxation recourse should not be made to the scientific meaning of the terms or expressions used but to their popular meaning, that is to say, the meaning attached to them by those dealing in them.

22. The averment therefore that redemption of mutual fund and sale of security, a term used in the explanation for computing the value of exempted supply is not same, fails. We hold that redemption as is mentioned in the websites quoted and also in general parlance is nothing but sale of units to the AMC. It does not matter by which nomenclature such a transaction is known until broadly it is a sale in other words cessation of ownership of the units by the unit fund holder, in this case the applicant.


23. Since this was the primary contention on which the applicant was basing his next averment that redemption not being akin to sale, the taxing statute lacks machinery provision to arrive at the value of exempt supply also lacks merit and fails. The plethora of case laws relied upon by the applicant, to substantiate this averment would also not help the applicant case in view of the foregoing. The case laws relied upon by the applicant, therefore, is not being discussed.

24. In view of above, we rule as under:

RULING

Question : Whether the applicant is eligible to avail ITC of tax paid on common inputs & input services used in relation to the subscription and redemption of mutual funds?

Answer : The applicant is not eligible to avail ITC of tax paid on inputs & input services used in relation to the subscription and redemption of mutual funds and also required to reverse the ITC on common inputs and input services used in relation to the subscription and redemption of mutual funds as per Section 17 (2).


(Kamal Shukla)
Member (SGST)


(P.B. Meena)
Member (CGST)

Place: Ahmedabad
Date: 25.03.2025