

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA**

REGIONAL BENCH – COURT NO. 2

Excise Appeal No. 75162 of 2024

WITH

Excise Appeal No. 75163 of 2024

AND

Excise Appeal No. 75164 of 2024

(Arising out of common Order-in-Appeal No. 74-76/SLG-CE/2023-24 dated 25.10.2023 passed by the Commissioner (Appeals), Goods & Service Tax, Siliguri Appeal Commissionerate, C.R. Building, Hakimpara, Haren Mukherjee Road, Siliguri – 734 001)

M/s. Sun Pharma Laboratories Limited

: Appellant

Plot No. 754, Setipool, P.O.: Ranipool,
East Sikkim, Sikkim – 737 135

VERSUS

Commissioner of C.G.S.T. and Central Excise

: Respondent

Siliguri Commissionerate,
Central Revenue Building, Hakimpara, Haren Mukherjee Road,
Siliguri – 734 001

APPEARANCE:

Shri Ashok Nawal, Consultant [C.M.A.], for the Appellant

Shri Prasenjit Das, Authorized Representative, for the Respondent

CORAM:

HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)

HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NOs. 77778-77780 / 2025

DATE OF HEARING: 20.11.2025

DATE OF DECISION: 26.11.2025

ORDER: [PER SHRI R. MURALIDHAR]

The appellant is aggrieved by the fact that their refund claims have not been granted on the ground that they have cited Notification No. 56/2003-C.E. dated 25.06.2003 when during the period under consideration the effective Notification was Notification No. 20/2007-C.E. dated 25.04.2007.

2. The Ld. Consultant appearing on behalf of the appellant makes the following submissions: -

(i) The details of the refund claims rejected and the appeals filed by them in respect of the same are as per the following table: -

Appeal Number	E-75162-2024	E-75163-2024	E-75164-2024	
Period	February 2016 to June 2016	February 2017 to May 2017	July 2016 to January 2017	
Amount Involved / Refund Rejected	Rs. 20,54,22,149/-	Rs. 12,68,44,992/-	Rs. 31,10,28,056/-	Rs. 64,32,95,197/-
SCN	V(18)02/Refund/CE/Sun-754/GTK.DIVN/16-17/3184 dated 05.08.2016	V(18)58/CE/Refund/Sun-754/GTK.DIVN/2016-17/658 dated 15.09.2017	V(18)58/CE/Refund/Sun-754/GTK.DIVN/2016-17/605 dated 20.02.2017	
OIO	41-43/Adj/CE/Refund/Sun Pharma/Gtk-Div/2022-23 dated 12.07.2022	41-43/Adj/CE/Refund/Sun Pharma/Gtk-Div/2022-23 dated 12.07.2022	41-43/Adj/CE/Refund/Sun Pharma/Gtk-Div/2022-23 dated 12.07.2022	
OIA	74-76/SLG-CE/2023-24 dated 25.10.2023	74-76/SLG-CE/2023-24 dated 25.10.2023	74-76/SLG-CE/2023-24 dated 25.10.2023	
Issue	Whether refund filed under Notification 56/2003-CE, but otherwise fully eligible under Notification 20/2007-CE, can be rejected solely on the ground that the wrong Notification number was mentioned in the refund application inadvertently.			
Refund Claim Details	Refund claims were filed for the period July 2016 to January 2017 under Notification No. 56/2003-CE. The Department rejected the entire refund amount, citing ineligibility under the said Notification.			
Points	<ol style="list-style-type: none"> 1. The Appellant satisfies all conditions of Notification No. 20/2007-CE and was entitled to the refund. 2. Mentioning Notification 56/2003-CE was a clerical and technical error. 3. Refund claims were filed correctly, supported by all documents. 4. Department had accepted identical refund claims in earlier periods. 5. Order-in-Appeal is non-speaking and fails to consider submissions and case laws. 6. Refund cannot be denied when substantive eligibility exists. 			

(ii) The Ld. Consultant relies on the "points" as mentioned at Sl. Nos. 1 to 6 in the above table.

(iii) He further submits that for the very same issue, the matter was before the Tribunal in the appellant's own case in Excise Appeal No. 76003 of 2021, which came to be decided by the Bench vide Final Order No. 77613 of 2025 dated 04.11.2025; in that case, the refunds were initially granted, but subsequently, proceedings had been initiated for recovery of the refunds already granted to them. He submits that vide the cited Final Order, the appeal filed by the appellant was allowed, granting them consequential relief. It is submitted that the present issue is identical, except for the fact that in that case, the refunds were granted and were sought to be recovered from the appellant whereas, in the present case, the refunds themselves have not been granted. Since the grounds taken by the Revenue are identical in both the cases, it is prayed that the present appeals be allowed.

3. The Ld. Authorized Representative of the Revenue reiterates the findings of the lower authorities. However, he fairly concedes that the issue before us is identical to the one which was before our Bench in respect of Excise Appeal No. 76003 of 2021 decided vide Final Order No. 77613 of 2025 dated 04.11.2025.

4. After hearing both the sides and on going through the facts of the present case, we find that the issue is identical to the already decided issue vide Final Order No. 77613 of 2025 dated 04.11.2025. The relevant extract of that Order is reproduced below: -

"10. We observe that consequent to passing of the order dated 26.03.2014, wherein the Respondent

has withdrawn the facility of self-credit, the appellant has started claiming the exemption benefit by filing refund claims for each month. Accordingly, the appellant filed refund claims for the period from March, 2014 to January, 2016, claiming 100% of the duty paid in PLA. However, inadvertently the appellant has filed all these claims in terms of the Notification No.56/2003, instead of Notification No.20/2007. The submission advanced by the appellant to this effect is that the conditions imposed and benefits available under both the above said Notifications are same and identical and hence inadvertent mentioning of Notification No. 56/2003-CE instead of Notification No. 20/2007-CE, would not disentitle them the benefit of exemption which is otherwise available to them under the Notification 20/2007-CE. A comparative chart showing the conditions imposed and benefits available under both the above said Notifications are extracted below:-

<i>Notification: 56/2003-C.E. dated 25-Jun-2003</i>	<i>Notification. No. 20/2007-CE dated 25-April-2007</i>
<i>Para 1 In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), read with sub-section (3) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957) and sub-section (3) of section 3 of the Additional Duties of Excise (Textiles and Textile Articles) Act, 1978 (40 of 1978), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the goods specified in the Schedule appended hereto, other than goods specified in Annexure appended hereto, and cleared from a unit located in the State of Sikkim, from so much</i>	<i>Para 1In exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act, 1944 (1 of 1944), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the goods specified in the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) other than those mentioned in the Annexure and cleared from a unit located in the States of Assam or Tripura or Meghalaya or Mizoram or Manipur or Nagaland or Arunachal Pradesh or Sikkim, as the case may be; from so much of the duty of excise leviable thereon under the said Act as is equivalent to the duty payable on value addition undertaken in the</i>

<p><i>Notification: 56/2003-C.E. dated 25-Jun-2003</i></p>	<p><i>Notification. No. 20/2007-CE dated 25-April-2007</i></p>
<p><i>of the duty of excise leviable thereon under any of the said Acts as is equivalent to the duty payable on value addition undertaken in the manufacture of the said goods by the said unit</i></p>	<p><i>manufacture of the said goods by the said unit</i></p>
<p><i>Para 3 -The exemption contained in this notification shall apply only to the following kinds of units, namely:</i></p> <p><i>(i) new industrial units which have commenced commercial production on or after the 23rd day of December, 2002, but not later than the 31st day of March,2007;</i></p> <p><i>(ii) industrial units existing before the 23rd day of December, 2002, but which have undertaken substantial expansion by way of increase in installed capacity by not less than twenty-five per cent. On or after the 23rd day of December, 2002, but have commenced commercial production from such expanded capacity, not later than the 31st day of March, 2007.</i></p>	<p><i>Para 5- The exemption contained in this notification shall apply only to the following kind of units, namely:</i></p> <p><i>(a) New Industrial units which commence commercial production on or after the 1 day of April, 2007 but not later than 31st day of March, 2017;</i></p> <p><i>(b) Industrial units existing before the 1st day of April, 2007 but which have undertaken substantial expansion by way of increase by not less than 25% in the value of fixed capital investment in plant and machinery for the purposes of expansion of capacity/modernization and diversification and have commenced commercial production from such expanded capacity on or after the 1st day of April, 2007 but not later than 31st day of March, 2017.</i></p>

Notification: 56/2003-C.E. dated 25-Jun-2003					Notification. No. 20/2007-CE dated 25-April-2007				
Para -2 -Table					Para -2 -Table				
S S	Chapter of the First Schedule	Description of goods	Rate	Description of inputs for manufacture of goods in column (3)	S N o .	Chapter of the First Schedule	Description of goods	Rate	Description of inputs for manufacture of goods in column (3)

10.1. From the aforesaid table, it is seen that the conditions imposed and benefits available under both the Notifications are same and identical, which shows that the intention of the Government behind issuance of both Notifications for granting the benefits to the Industrial Units is also same. The only difference is that the industries which have commenced their commercial production between 23.12.2002 to 31.03.2007 are entitled for the benefit under Notification No. 56/2003-CE whereas the industries which have commenced their commercial production between 01.04.2007 to 31.03.2017 are entitled for the benefit under Notification No. 20/2007-CE. It is seen that the said benefit has continued for the industries which have initiated their commercial production from the period 01.04.2007 to 31.03.2017. We find that, as a matter of fact, the Notification No.20/2007 CE date

25.04.2007 has been issued, in order to continue the facility already given under the earlier Notification No.56/2003 CE dated 25.06.2003, so that the units starting their manufacturing activity after 31.03.2007, but before 31st March 2017, also get the same benefit which was given under Notification No.56/2003. The legislative intent is clear to continue the benefit for the next 10 years for the assesses operating in the Sikkim region.

10.2. We also note that both the aforesaid notifications were amended in the year 2008 to curtail the benefit granted and even the said amendment was also identical. Basically, Industrial Policy was announced in the year 2003 and to give effect to the same, the Notification No. 56/2003-CE was issued and, similarly, when Industrial Policy was announced in the year 2007, the Notification No. 20/2007-CE came to be issued and the benefits granted vide Industrial Policy, 2003 were continued. It is amply clear that there is no revenue loss or any adverse effect in availment of benefits under either Notifications.

10.3. It is on record that the appellant had duly complied with all the relevant provisions of the Notification No. 20/2007-CE during the entire tenure of 10 years. We observe that the Revenue has also not disputed this claim of the appellant. We also take due note of the fact that from September 2015 onwards, the appellant has correctly filed the refund claims under the Notification No. 20/2007-CE and the said claims have been sanctioned by the proper officer under the Notification No. 20/2007-CE. Thus, we find that the eligibility of the appellant to claim the benefit of exemption as provided under Notification No. 20/2007-CE was not in dispute for the entire period from December 2012 to January 2017. Resultantly, we find that it is a case of mere inadvertent mentioning of Notification No. 56/2003-CE instead of Notification No. 20/2007-CE. As the appellant had duly complied with all the relevant provisions of the Notification No. 20/2007-CE, we hold that the inadvertent error in wrong mentioning of the Notification No. 56/2003 would not disentitle them from availing the benefit of Notification No. 20/2007 which is otherwise entitled to them.

10.4. We also find that the said issue has already been laid to rest in a catena of decisions rendered by various judicial fora. The same view has been

expressed by the Hon'ble Supreme Court in the case of Share Medical Care Versus Union of India [2007 (209) E.L.T. 321 (S.C.)], wherein it has been held that even if an applicant does not claim benefit under a particular notification at the initial stage, he is not debarred, prohibited or estopped from claiming such benefit at a later stage. The relevant part of the said decision is reproduced below for ready reference:

"15. From the above decisions, it is clear that even if an applicant does not claim benefit under a particular notification at the initial stage, he is not debarred, prohibited or estopped from claiming such benefit at a later stage.

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20. In our opinion, the decision in Mediwell Hospital would not take away the right of the appellant to claim benefit under para 3 of the Table of exemption notification. If the appellant is not entitled to exemption under para 2, it cannot make grievance against denial of exemption. But if it is otherwise entitled to such benefit under para 3, it cannot be denied either. The contention of the authorities, therefore, has no force and must be rejected."

(Emphasis supplied)

10.5. A similar rationale has been adopted by the Tribunal at Allahabad in the case of R.S. Infraprojects (Pvt.) Ltd. v. Commissioner of C.Ex., Ghaziabad [2017 (358) E.L.T. 1188 (Tri. - All.)], wherein the petitioner appellant had rectified their claim which was earlier made under Notification No. 108/95 to the correct Notification being Notification No. 6/2006-C.E. The Tribunal, while citing the reference of the judgement in Share Medical Care (supra), has held as under: -

"5. Having considered the rival contentions we find that in the show cause notice no objection have been raised by Revenue regarding allowability of the benefit of

exemption Notification No. 6/2006-C.E. Neither any objection is raised as to the eligibility of the appellant under the said Notification No. 6/2006. The only objection of the Revenue is regard to the retrospective effect of the claim of the appellant for their eligibility under Notification No. 6/2006-C.E. From the perusal of the facts on record we find that the show cause notice is misconceived. No case of any retrospective claim is made out from the show cause notice. It is evident on the face of record that the appellant had only rectified his claim which was earlier made under Notification No. 108/95 to the correct Notification being Notification No. 6/2006-C.E. Thus, we hold that there is no case of any retrospective claim. Secondly, we find that Notification No. 6/2006 is of dated 1-3-2006 and the clearances were made thereafter and on this count also there is no question of any retrospective applicability of the said Notification. We further find that the appellant have rightly relied on the ruling of Hon'ble Supreme Court on the ruling in Share Medical Care v. Union of India - [2007 \(209\) E.L.T. 321](#) wherein the Hon'ble Apex Court have held that even if an applicant does not claim benefit under a particular Notification at initial stage, he is not debarred, provided or stopped from claiming such benefit at a later stage. Accordingly, we find that the show cause notice is unsustainable. Accordingly, we allow the appeal and set aside the impugned Order-in-Original and the appellant shall be entitled for consequential benefit in accordance with law."

10.6. A similar issue has also been decided by the Hon'ble Uttarakhand High Court in the case of Commissioner of Cus. & C.Ex., Meerut-II v. Packaging India (Pvt.) Ltd. [2012 (285) E.L.T. 497 (Uttarakhand)]. The relevant observation made by the Hon'ble High Court reads thus: -

"2. The genuineness of the contention that the declaration under Notification No. 49 was filed by mistake was not questioned at any point of time. A look at Notification No. 49 will show that the goods dealt with by the assessee were not covered by said

Notification, but the goods dealt with by the assessee were covered by Notification No. 50. By submitting a declaration, as was submitted, the assessee was entitled to the benefits of Notification No. 50. The assessee submitted such a declaration, but while submitting the same, indicated that the declaration is being submitted under Notification No. 49, instead of Notification No. 50. In the circumstances, the matter having been decided in favour of the assessee, there is no question of law involved, nor any question of fact to be gone in."

10.7. It may also be pertinent to note the observations of the Tribunal in the case of *Tata Consulting Engineers v. Commissioner of C.Ex., Bangalore [2000 (124) E.L.T. 467 (Tri.)]*, which reads as follows: -

"4. We have considered the submissions of both sides. It is now seen from the impugned order itself that the use of the goods in question were not disputed in the impugned order. On the contrary, the learned Collector himself has stated in the impugned order that M/s. Voltas had advised the appellants that the correct Notification is 93/76. He also gave a finding in the impugned order which reads as follows:

"It is therefore clear that the appellants were entitled to the benefit of Notification 93/76".

5. He, therefore, came to the conclusion that the appellant is entitled to the benefit of Notification 93/76, which clearly goes to show that the use of the above said goods in terms of the above said Notification was also not disputed by him. The only ground which he held against the appellant is that the supplier while sending the goods has mentioned in the gate pass that they are being sent under Notification 56/78. Since the duty is now demanded from the appellant, the mere fact that the suppliers have mentioned Notification 56/78 will not come in the way of the appellant in claiming the above said notification and more particularly, in view of the finding of the learned Collector (Appeals)

himself that the appellants are entitled to the benefit of Notification 93/76.”

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15. *In view of the above findings and by relying on the decisions cited supra, we find that the impugned order confirming the demand of alleged erroneously sanctioned refund claim is legally not sustainable. Accordingly, we do not find any infirmity in the proper officer sanctioning the refund to the appellant. We thus hold that the appellant is eligible for the refund and consequently, the demand on account of alleged erroneous refund in the impugned order is set aside.*

16. *In the result, we set aside the impugned order and allow the appeal filed by the appellant, with consequential relief, if any, as per law. The cross objection filed by the respondent also stands disposed of accordingly.”*

5. Applying the ratio laid down in the cited case-law, we set aside the impugned order and allow the appeals.

6. We fully agree with the Ld. Consultant appearing for the appellant that the issue on hand is squarely covered by the decision of this Bench in their own case decided vide Final Order No. 77613 of 2025 dated 04.11.2025, on identical issue.

7. The appellant has filed the refund claims between February 2016 and January 2017. After prolonged litigation, under both Orders-in-Original as well as Order-in-Appeal, their refund claims were rejected. Only at the Tribunal level now, the appellant is getting the relief. For the delayed refund, interest is

payable after expiry of three months from the date of filing of the refund claims. In the present case, we direct the adjudicating authority to grant the refunds along with interest at the rate of 6%, calculating the same as payable immediately after three months from the original date of filing of the refund claims.

8. Since the refunds pertain to the period 2016-17, the adjudicating authority is directed to process the refund applications and grant the same expeditiously, within a period of eight weeks from the date of receipt of this Order.

(Order pronounced in the open court on **26.11.2025**)

Sd/-

(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/-

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)