CNR No. SKHC01-000069-2025

THE HIGH COURT OF SIKKIM: GANGTOK
(Civil Extra Ordinary Jurisdiction)

SINGLE BENCH : THE HON'BLE MR. JUSTICE A. MUHAMED MUSTAQUE, CHIEF JUSTICE

WP(C) No.24 of 2025

Lupin Limited,
A Company incorporated under the
Companies Act, 1956, having its
registered office at 3rd Floor,
Kalpataru Inspire, Off W.E. Highway,
Santacruz (East) Mumbai - 400055
and an office at 39/278, 149/2224,
75, 208/233, 85, 407 & 149/2225
Kamarey - Bhasmey Block, Duga - Ilaka,
P.O. & P.S. Rangpo, Sikkim,
Through its authorized representative
Shri Sandeep Agarwal. ... **Petitioner**

versus

1. **Union of India,**
Through the Secretary,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi.

2. **The Secretary, Ministry of Commerce and Industries,**
Department for Promotion of Industry and Internal Trade,
Vanijya Bhawan, New Delhi.

3. **Commissioner of CGST & CX,**
Siliguri Commissionerate,
C. R. Building, Haren Mukherjee Road,
Hakimpara, Siliguri, West Bengal.

4. **Assistant Commissioner of CGST & CX,**
Gangtok Division,
Near District Court, Indira Bye pass Road,
Sichey, Gangtok, Sikkim. ... **Respondents**

Petition under Articles 226 and 227 of the Constitution of India

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<u>Appearance:</u>

Mr. Prakash Shah, Senior Advocate (through VC) with Ms. Menuka Gurung, Advocate for the Petitioner.

Ms. Sangita Pradhan, Deputy Solicitor General of India with Ms. Sittal Balmiki and Mr. Amit Kumar Sharma, Advocates for the Respondents.

Judgment Reserved on	: 03.09.2026
Judgment Pronounced on	: 23.09.2026
Judgment Uploaded on	: 23.09.2026

JUDGMENT

(A. Muhamed Mustaque, C.J.)

1. The matter pertains to the alleged excess budgetary support received by the Petitioner, Lupin Limited, under the Budgetary Support Scheme notified by the Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce and Industries, Government of India. Vide Notification dated 05.10.2017. The Petitioner Company is covered by the said Scheme and is entitled to budgetary support in accordance with the terms thereof. The issue in the present matter relates to the period from July 2017 to March 2018.

2. As per the Budgetary Support Scheme, goods manufactured by the Petitioner would be eligible for budgetary support to the extent of 58% of the Central Tax paid through debit in the cash ledger account and 29% of the Integrated Tax, paid through debit in the cash ledger account, after utilization of the eligible Input Tax Credit (ITC).

3. Based on the records, the Petitioner was granted budgetary support amounting to Rs. 12,48,27,999/- against its claim of Rs. 12,63,99,662/- for the period July 2017 to March 2018.

4. Thereafter, the Respondents alleged that the Petitioner had received excess budgetary support and initially sought recovery of ₹41,64,578/- (Rupees forty-one lakhs sixty-four thousand five hundred and seventy-eight only).

5. The Petitioner then approached this Court by filing *W.P(C) No. 46 of 2022*. This Court by order dated 19.05.2023, directed the Respondents to examine the additional documents furnished by the Petitioner and thereafter, by order dated 20.11.2023, permitted the

Respondents to re-examine the recovery. Pursuant thereto, verification was conducted and the alleged excess amount was revised to Rs. 37,93,159/- (Rupees thirty-seven lakhs ninety-three thousand one hundred and fifty-nine only).

6. The Petitioner then filed the instant Writ Petition challenging the Order-in-Original dated 07.01.2025 passed by the Assistant Commissioner, Central Goods and Service Tax (CGST), Government of India, Gangtok Division and the consequential adjustment order dated 10.03.2025. The impugned orders challenged by the Petitioner confirmed recovery of the alleged excess budgetary support amounting to ₹37,93,159/- (Rupees thirty-seven lakhs ninety-three thousand one hundred and fifty-nine only) along with interest at the rate of 15% per annum. Subsequently, an amount of ₹75,40,592/- (Rupees seventy-five lakhs forty thousand five hundred and ninety-two only), was adjusted from the refund otherwise payable to the Petitioner for the period April to June, 2024.

7. The short point for consideration is whether the Petitioner's explanation and supporting documents were properly considered by the Respondents and whether adequate reasons were recorded while rejecting the same. The Petitioner's case is that it had inadvertently disclosed a certain amount in Table 8C of GSTR-9 and that such inadvertent disclosure was the reafter relied upon to conclude that the Petitioner had received excess budgetary support for the period in question.

8. The question that required consideration was whether the ITC reflected in GSTR-2A was in fact legally available and capable of being utilized by the Petitioner. The Petitioner was required to explain the discrepancy by way of reconciliation statements, invoices and relevant account details. If such explanations were supported by the necessary materials demonstrating that the ITC reflected in GSTR-2A was not actually eligible or available for utilisation, the Respondents were required to consider those explanations and record the documents relied on and reasons for accepting or rejecting the same in a reasoned order.

9. This Court finds that such an exercise was not properly undertaken in the present matter. In such circumstances, one further opportunity ought to be given to the Petitioner to demonstrate, with supporting documents, the basis on which the ITC reflected in GSTR-2A had arisen and why such ITC was not available for utilisation.

10. In such circumstances, in order to afford an opportunity to the Petitioner, it is appropriate that the impugned orders be set aside and this Court directs the Respondents to reconsider the matter afresh after affording an effective opportunity of hearing to the Petitioner.

11. It is made clear that the Petitioner shall demonstrate, by producing the necessary documents, why the ITC reflected in GSTR-2A was not available for utilisation and the Respondents are directed to consider each of such explanations and supporting documents and deal with the same by recording reasons in the final order to be passed.

12. With the above directions, the W.P.(C) No. 24 of 2025 stands disposed of.

13. Needful shall be done within a period of two months.

Chief Justice

Approved for reporting: No.
ami/arc