

HIGH COURT OF TRIPURA
AGARTALA

Review Petition 5 of 2025

Dharampal Satyapal Ltd. ---Petitioner(s)
Versus
The Union of India and Another. ---Respondent(s)

Review Petition 6 of 2025

Dharampal Premchand Ltd. ---Petitioner(s)
Versus
The Union of India and Anr. ---Respondent(s)

Review Petition 7 of 2025

Satyapal Shivkumar Ltd. ---Petitioner(s)
Versus
The Union of India And Anr. ---Respondent(s)

For Petitioner (s)	:	Dr. A. Saraf, Sr. Advocate. Mr. Koushik Roy, Advocate.
For Respondent(s)	:	Mr. P. Datta, Advocate. Mr. S. Choudhury, Advocate.
Date of hearing and date of judgment and order	:	04.03.2025.
Whether fit for reporting	:	No

HON'BLE MR. JUSTICE T. AMARNATH GOUD
HON'BLE MR. JUSTICE BISWAJIT PALIT

Judgment & Order (Oral)

(T. Amarnath Goud, J)

Heard learned counsel appearing for the parties.

[2] At the very outset, it is represented by the counsel for the petitioners that since the subject matter of all the review petitions mentioned above came out the similar facts and circumstances, all may be heard and disposed of together. Having heard so, all the matters are clustered together as the facts involved are similar in nature and can be disposed of a common judgment.

[3] The present application has been filed in the spirit of Section 114 read with Order XLVII Rule 1 of the Code of Civil Procedure, 1908 read with Article 226 of the Constitution of India seeking review of the judgment and order dated 27.11.2024 in Central Excise Appeal No.2 of 2024.

[4] It is the contention of the review petitioner that an error apparent on the face of record has occurred in passing of the impugned judgment and order dated 27.11.2024 in C. Ex. Appeal No. 2 of 2024 and as such the said judgment and order needs to be reviewed. Furthermore, since the substantial questions of law were already formulated by this Court and the legal issues raised were squarely covered by judgment and order dated 22.03.2021 of this Court passed in C. Ex. Appeal 1 of 2019 and the arguments and submissions of both the sides were duly recorded in judgment and order dated 27.11.2024, not answering the said substantial questions so formulated is an error apparent on the face of record and therefore the judgment and order dated 27.11.2024 needs to be reviewed.

[5] Furthermore, appeal filed under Section 35G of Central Excise Act, 1944 is to be heard only on the substantial questions of law so formulated. However, this Court, while delivering the Judgment and Order dated 27.11.2024, swayed away from the amount of Central Excise Duty demanded and observed that the matter needs consideration as to whether the things were properly attended or not and accordingly, remanded the matter back to the Commissioner of Central Excise, Shillong for reconsideration of an issue not relevant to the present case.

[6] Since as per Section 35G of the Central Excise Act 1944 and various judicial pronouncements of the Apex Court, such power is not conferred on a High Court while dealing with an appeal filed under Section 35G of Central Excise Act, 1944, remanding of the matter back to the Commissioner of Central Excise, Shillong is an error apparent on the face of records.

[7] Also, since the show cause notice itself was barred by limitation inasmuch as the Tribunal held that there was no suppression to evade payment of any duty and the said finding was not a subject matter of challenge and no substantial questions of law having been formulated on the said issue, the appeal was liable to be dismissed on that ground itself.

[8] As such, on the grounds stated above along with other grounds narrated in the petition, the present review petition/application has been filed.

[9] The main appeals were disposed of after hearing the both sides by the order dated 27.11.2024.

[10] Today the counsel for the petitioner came up before this court by way of filing these review petitions on the point that substantial question of law framed by the impugned order and which according to the counsel for the petitioner were not answered. It is also advanced by the counsel for the petitioner that remanding the matter on the point of duty after such a prolonged period may not serve the purpose. Further, on the point of equity and limitation, this court considered the appeal since the huge amount was involved and remanding back may not be proper. He further prayed to allow the review petitions.

[11] To examine the matter, the requirements to review are specified under CPC are extracted herein below for ready reference:

- (1) *“114-Review: Subject as aforesaid, any person considering himself aggrieved*
- (a) By a decree or other from which an appeal is allowed by this Code, but from which no appeal has been preferred.*
 - (b) By a decree or order from which no appeal is allowed by this Code, or*
 - (c) By a decision on a reference from a Court of small causes, may apply for a review of judgment to the Court which passed by the decree or made the order, and the Court may make such order thereon as it thinks fit.”*

(2) *Order XLVII Rule 1 of CPC*

1. Application for review of judgment- (1) any person considering himself aggrieved-

- (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred.*

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence, which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment of the Court which passed the decree or made the order.

[12] The requirements as contemplated in Tripura High Court Review provision in Chapter –VIII Rule-2 is extracted for ready reference.

(2) *Discovery of New Important Matter in Review Application: Every application for review made upon the ground of the discovery of new and important matter of evidence within the meaning of Order XLVII Rule 1 of CPC shall be accompanied by an affidavit of the applicant together with the documents, if any, relied upon, and stating in clear terms, what such new and important matter of evidence is the effect or purport thereof and that the same, after the exercise of new diligence was not within the knowledge of the applicant or could not be produced at the time when the decree/order was passed.*

[13] In view of the above, this court has no hesitation to say that the present review petition does not fit into the ambit of Section 114 of CPC neither does the case stand as per provision in Chapter –VIII Rule-2 of Tripura High Court Review provision. After perusal of the records and submissions, the Court finds no error apparent on the face of the record warranting review. The petitioners have failed to present any new or compelling evidence justifying reconsideration. The grounds raised merely reargue matters already adjudicated. As review jurisdiction is limited to correcting manifest errors, no case is made out. Further, the arguments which were advanced by the counsel for the petitioners do not find place for reconsidering the impugned order passed.

[14] In so far as the substantial questions of law are concerned which according to the petitioners stood unattended, it implies that once the appeal is disposed of and the matter is remanded back before the authority [though by framing or examining one particular point], the entire matter including substantial questions of law gets merged in the order. The point which fell for consideration in the Central Excise Appeal was the collection of duty. This court clarified that in the

event if the duty is paid by the petitioner herein or his supplier, the same can be placed before the concerned authority and by virtue of which the main cause of action, i.e. demand made by authority, loses its strength.

[15] Therefore, this court finds that interference by way of review is unwarranted at this juncture and accordingly the same is dismissed with the above observation.

[16] In view of the above, the substantial questions of law needs no further adjudication.

[17] In view of the above, the review petitions are dismissed. As a sequel, miscellaneous application, pending if any, shall stand closed.

B.Palit, J

T. Amarnath Goud, J

