

THE HIGH COURT OF SIKKIM: GANGTOK
(Civil Extraordinary Jurisdiction)

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

WP(C) No.38 of 2023

Cipla Limited

Through the Director (Indirect Tax Finance),
A company incorporated under
the erstwhile Companies Act, 1956,
Unit-II, Taza Block,
Amba Thareythan Illaka,
Rorathan Bazaar, Sikkim.

... Petitioner

versus

- 1. Union of India**
Through the Secretary,
Ministry of Commerce and Industry,
Vanijya Bhawan, New Delhi.
- 2. State of Sikkim**
Through the Secretary,
Finance, Revenue and Expenditure Department,
Secretariat, Gangtok, Sikkim.
- 3. Department for Promotion of Industry and Internal Trade**
(Erstwhile Department for Industrial Policy and
Promotion) under the Ministry of Commerce,
and Industry, through the Secretary,
Udyog Bhawan, New Delhi.
- 4. Central Board of Indirect Taxes and Customs,**
Department of Revenue
Through the Secretary,
Ministry of Finance,
North Block, New Delhi.
- 5. The Commissioner,**
Central Goods and Services Tax,
Gangtok Division, Near District Court,
Near Bypass Road, Sichey, Gangtok, Sikkim.
- 6. Deputy/Assistant Commissioner,**
Central Goods and Services Tax,
Gangtok Division, Near District Court,
Near Bypass Road, Sichey, Gangtok, Sikkim. **... Respondents**

Petition under Article 226 of the Constitution of India

Appearance:

Mr. Gopal Mundra, Advocate with Ms. Ashwini Shantharam (through VC) and Mr. Sangay Gyurmay Bhutia, Advocates for the Petitioner.

Ms. Sangita Pradhan, Deputy Solicitor General of India with Ms. Sittal Balmiki and Mr. Amit Kumar Sharma, Advocates for the Respondents No.1, 3 to 6.

Mr. Thinlay Dorjee Bhutia, Government Advocate for Respondent No.2.

Judgment Pronounced on : 21.08.2026

Judgment Uploaded on : 24.08.2026

JUDGMENT (ORAL)

(A. Muhamed Mustaque, C.J.)

1. The Petitioner, a pharmaceutical company having industrial units in the State of Sikkim has filed this instant Writ Petition. The matter arises from a claim for budgetary support under the budgetary support notification under the Goods and Services Tax (GST) regime to the units located in the States of Jammu & Kashmir, Uttarakhand, Himachal Pradesh and North Eastern States including Sikkim issued by the Ministry of Commerce and Industry, Union of India (Respondent No.1) on 05.10.2017 to promote industrial growth.

2. The Petitioner had submitted a declaration/application on 19.09.2019, claiming budgetary support for its unit in Sikkim. In that declaration/application, the Petitioner claimed Input Tax Credit (ITC) for an eligible unit amounting to ₹15,28,80,613/- (Rupees fifteen crores, twenty-eight lakhs, eighty thousand, six hundred and thirteen only). To substantiate this claim, Respondent No. 6 directed the Petitioner to provide a Chartered Accountant (CA) certificate. The resulting certificate explicitly stated that the ITC actually availed by the Petitioner was ₹10,01,57,759/- (Rupees ten crores, one lakh, fifty-seven thousand, seven hundred and fifty-nine only). However, the proceedings were concluded via an order dated 19.01.2023 without consideration of the

CA certificate or affording an opportunity for the Petitioner to explain the discrepancy. The impugned order accepted the initial declaration of ₹15,28,80,613/-, even though the CA certificate confirmed that the ITC utilized for eligible goods was only ₹10,01,57,759/-.

3. The Petitioner contends that the higher figure in the declaration was a mistake and that the actual ITC was the lower amount reflected in the CA certificate. Consequently, the Petitioner argues that the balance of ₹5,27,22,856/- (Rupees five crores, twenty-seven lakhs, twenty-two thousand, eight hundred and fifty-six only) was wrongly deducted from their entitlement. This writ petition challenges the impugned order regarding that deduction.

4. This Court while hearing this matter on 19.09.2025, passed the following order:-

"The matter is fixed today for clarification. During the process of clarification it is noticed that one of the grievances of the Petitioner is that an opportunity of personal hearing was not given to the Petitioner by the Respondent No.6 to enable the Petitioner to clarify the errors made in the claim.

Learned Deputy Solicitor General submits that the documentary evidence submitted by the Petitioner was the basis of the computation in the impugned Order.

Considered submissions.

In the wake of foregoing circumstance, it is hereby ordered that the Respondent No.6 shall afford a personal hearing to the Petitioner to verify the claims of the Petitioner regarding the entitlement and errors if any made in such claims in terms of the dispute detailed in the instant Writ Petition within 45 days' from today.

Consequent upon consideration by the Respondent No.6, the matter shall be reverted to this Court. List on 24-11-2025."

5. Thereafter, an order was passed by the Respondent No.6 after hearing the parties on 24.04.2026. As is evident from that order, the Respondent refused to consider the Petitioner's objection. The Petitioner has pointed out that in terms of the certificate issued by the CA, the actual figures were reflected therein and due to an error in the declaration, the Petitioner would be disentitled to the credit to which the Petitioner would otherwise be entitled. In the order passed on

24.04.2026, the Respondent observed that there was no provision under the scheme permitting *post facto* revision or substitution of figures after filing, particularly where such revision would alter the quantum of benefit.

6. This Court is unable to agree with the finding in the impugned order, particularly when such finding is contrary to the earlier direction issued by this Court to consider the claim of the petitioner. The question, therefore, is whether the petitioner is entitled to seek rectification or, alternatively, whether the petitioner is entitled to challenge the impugned order. There may not be any specific statutory provision governing such a situation. However, on the face of the record, there is admittedly a discrepancy between the declaration submitted by the petitioner and the certificate issued by the Chartered Accountant.

7. In such circumstances, before concluding the proceedings, the respondent ought to have sought an explanation from the petitioner regarding the discrepancy apparent from the declaration and the CA certificate. It is significant that the CA certificate was produced pursuant to the direction of the respondents themselves. Despite this, the proceedings were concluded without affording the petitioner an opportunity to explain the discrepancy. In such circumstances, the proceedings could not have been validly concluded without due consideration of the discrepancy and without affording an opportunity to the Petitioner to explain the same.

8. This is not a case in which the question of rectification, in the ordinary sense in which that expression is understood in assessment proceedings, arises. The issue is anterior to that. The proceedings themselves were concluded without affording the petitioner an opportunity to explain the discrepancy between the declaration and the

CA certificate. It is true that ordinarily the petitioner would have to stand by the declaration submitted by the Petitioner. That, however, cannot be treated as an invariable or inflexible rule. If the petitioner contends that the declaration contains an error or mistake, the Petitioner must necessarily be afforded an opportunity to explain how such mistake occurred and, if necessary, to substantiate the explanation by supporting documents.

9. Indeed, the position becomes apparent if the situation is reversed. If the declaration had disclosed a lesser value while the CA certificate disclosed a higher value, would the respondents have accepted the declaration without seeking any explanation? This Court has little doubt that, in such a situation, the respondents would themselves have called upon the petitioner to explain the discrepancy. A mere human error in a declaration cannot, by itself, be capitalised upon to the prejudice of the claimant without affording an opportunity to explain the same.

10. This Court is not, at this stage, expressing any opinion as to whether the discrepancy was in fact the result of an error or whether the explanation of the petitioner is ultimately acceptable. The limited question is whether, when the discrepancy was apparent from the record, the petitioner ought to have been afforded an opportunity to explain it before the proceedings were concluded. In the considered view of this Court, the answer must necessarily be in the affirmative.

11. The Respondents were required to act fairly. When a discrepancy is apparent on the face of the record, the officer ought to call upon the applicant to explain the same. If the explanation is found unsatisfactory, the officer would be at liberty to proceed to a conclusion on the merits. But the proceedings cannot be concluded without giving the affected

party a reasonable opportunity to explain a discrepancy which forms the basis of the decision.

12. Fairness is the hallmark of such proceedings. Therefore, this Court is of the view that the present case cannot properly be characterised as one involving rectification in the ordinary course after the conclusion of proceedings. The defect goes to the proceedings itself, since it was concluded without affording the petitioner an opportunity to explain the discrepancy. The proceedings, therefore, could not have been concluded merely by relying upon the declaration, particularly when the CA certificate had been produced pursuant to the direction of the respondents themselves.

13. This Court is of the view that the proceedings so concluded, have to be set aside to the extent challenged before this Court, and the Petitioner is required to be given an opportunity to explain the mistake, if any, that occurred.

14. Accordingly, the impugned Order is set aside to the extent of the challenge before this Court.

15. The Petitioner is given the liberty to produce all the documents to substantiate the claim that the mistake occurred in the Declaration.

16. The Order has to be complied by the Respondents No.5 and 6. The needful shall be done within eight weeks.

17. The Petitioner is free to produce any documents in the meanwhile before the hearing is concluded before the Respondents No. 5 and 6 to substantiate the contention that there occurred a mistake in the Declaration.

18. With the liberty as above, WP(C) No.38 of 2023 is allowed and the impugned order is set aside to the extent as above.

Chief Justice

Approved for reporting: ~~Yes~~/No

ds/ami/arc