

Refund claims cannot be re-opened or recovered merely on judgement's subsequent overruling - Sikkim HC

24 September 2024

Summary

The Sikkim High Court (HC) has dismissed the appeal filed by the department, holding that the subsequent change in the legal position does not permit the re-opening of refund claims validly granted under the earlier law. The HC stated that the refunds were correctly sanctioned after relying on the Supreme Court's (SC's) judgement in the case of M/s SRD Nutrients Private Limited. Further, the HC observed that overruling an earlier judgement of the SC by another judgement does not make the refund claims sanctioned earlier as erroneous because the refund was sanctioned under the law prevailing at the relevant time. The HC stated that allowing such recovery would lead to endless litigation, which goes against the principles of the finality of judicial decisions and public policy. Therefore, the HC upheld the order passed by the Tribunal to allow the refund claims.

Facts of the case

- M/s Alkem Laboratories Limited (the respondent) is a manufacturer of pharmaceutical products and was allowed a refund of duty paid based on the SC's judgement in the case of M/s SRD Nutrients Private Limited¹.
- The judgement¹ was later overruled by another decision made by the SC in the case of M/s Unicorn Industries.
- Subsequently, a show cause notice (SCN) was issued to the respondent by invoking provisions of Section 11A of the Act of 1944 to recover the previously sanctioned refund, deeming it erroneous.
- Later, the said recovery was confirmed by the adjudicating authority.
- Aggrieved by the above order, the respondent filed an appeal before the Tribunal.
- The Tribunal² relied on the ruling in the case of Tripura Ispat and observed that the refund claims were sanctioned based on a decision that was the prevailing law at the time. Although the decision was later overruled, it does not invalidate the refund rightly granted under the earlier decision.
- Therefore, the Tribunal passed the final order by setting aside the impugned order.
- Aggrieved by the above order, the department has filed the present appeal before the HC.

Issue before the HC

- Whether refunds sanctioned based on the legal framework prevailing at the time of the grant of refund can be recovered following a subsequent change in the legal position?

Sikkim HC's observations and judgement [TAX APP. No. 01 OF 2024 dated 5 September 2024]

- **Application of Section 11A of the Excise Act:** The HC emphasised that Section 11A allows the recovery of erroneous refunds. However, when the refund claims were sanctioned, the SC's decision in SRD Nutrients was valid and binding. Therefore,

¹ [(2018) 1 SCC 105]

² Excise Appeal No. 75147 of 2023

the excise officer's actions aligned with the prevailing legal framework at the time of sanctioning the refund claim. Any subsequent change in the legal position would not permit the officers to invoke the powers of Section 11A of the Excise Act.

- **Finality of judicial decisions:** The HC relied on the decision of the SC in the case of *Saraswati Agro Chemical*³, wherein it was held that judicial precedents that have attained finality based on the law prevailing at the time cannot be reopened merely because of a subsequent overruling of the subsequent decision.
- **Appeal dismissed:** The HC dismissed the appeal filed by the department and upheld the Tribunal's order to allow the refund claims, stating that the refunds were rightly sanctioned under the law prevailing at the relevant time.

Our comments

Earlier, in the case of *Saraswati Agro Chemical*, the Supreme Court ruled that a subsequent overruling of a precedent cannot be applied to reopen or review past judicial decisions that attained finality.

The present ruling reiterates that once a subsequent judgment overrules an earlier judgement on a point of law, the earlier judgment cannot be reopened or reviewed based on a subsequent judgment. This decision would promote a fair and predictable tax environment and discourage unnecessary litigation. The HC ruling is significant for taxpayers as this ruling ensures that subsequent overruling decisions cannot nullify refund claims sanctioned under prevailing legal judgements.

³ (Special Leave Petition (Civil) Diary No(s). 18051/2023)

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