

## Sun Pharma Laboratories Limited v. Union of India and Others

**Case number:** WP(C) No. 47 of 2018

**Citation:** 2021:SHC:13-DB; SLR (2021) SIKKIM 85

**Decision date:** 5 February 2021

GST-transition budgetary support, promissory estoppel and binding Supreme Court precedent

**Court:** High Court of Sikkim at Gangtok

**Bench:** Hon'ble Mrs. Justice Meenakshi Madan Rai and Hon'ble Mr. Justice Bhaskar Raj Pradhan

**Decision stage:** Final merits dismissal of the challenge to restricted GST budgetary support. Sun Pharma's direct Civil Appeal No. 7406 of 2022 was later dismissed with the representation qualification in Hero Motocorp, 17 October 2022.

### 01 Facts of case and issues

Sun Pharma operated two pharmaceutical units in East Sikkim, commencing commercial production on 20 April 2009 and 14 April 2014. It relied on industrial incentives promising excise-duty relief for ten years. The 2007 policy and implementing notification formed part of the relevant incentive history.

After GST commenced, the earlier excise exemptions were rescinded. The 5 October 2017 Budgetary Support Scheme provided eligible units residual-period support of 58% of CGST and 29% of IGST paid through the cash ledger after full utilisation of the relevant input tax credit. Sun Pharma sought 100% of cash-paid CGST and 50% of cash-paid IGST, invoking promissory estoppel and Article 14. The central question was whether V.V.F. Limited already governed that challenge or an independent examination was required.

**Pinpoint:** Paragraphs 1(a)–1(g), 5 and 8, pp. 1–9 and 11; the precise reimbursement prayer appears at p. 9.

### 02 Discussion by Hon'ble Court

The Bench traced Sun Pharma's earlier excise litigation and the Supreme Court's reversal in V.V.F. Limited. That decision treated the challenged value-addition refund notifications as clarificatory, issued in public and revenue interests, and consistent with genuine manufacturing incentives. It rejected the estoppel challenge in that setting.

The High Court considered the present grievance materially the same notwithstanding the different, GST-era notification. It noted that Sun Pharma had itself sought to hold this writ judgment in abeyance pending the earlier Supreme Court proceedings because the issues were the same.

Applying Article 141 and Director of Settlements v. M.R. Apparao, the Bench held that the binding ratio must be read from the judgment as a whole. It regarded V.V.F. as resolving the controversy and declined to reopen promissory estoppel. This was the High Court's reasoning; the direct appeal later supplied the controlling GST-specific statutory analysis.

**Pinpoint:** Paragraphs 9–15, pp. 11–28; especially paragraphs 11–15, pp. 25–28.

### 03 Judicial decision and operative relief

The High Court found no merit and dismissed the writ petition, without costs. It granted no enhanced reimbursement, refund, remand or exemption.

Direct appeal: on 17 October 2022, the Supreme Court dismissed Sun Pharma's Civil Appeal No. 7406 of 2022 with Hero Motocorp's appeal, save for observations permitting representations to the respective State Governments and GST Council for expeditious consideration. Those observations did not award the balance support or extend the incentive period.

**Pinpoint:** High Court paragraphs 15–17, pp. 28–29. Supreme Court: cover and paragraph 4, pp. 1–3; paragraphs 79–83, pp. 71–73.

### 04 In favour of

**Union of India and the respondents on the High Court merits; no taxpayer relief. The later Supreme Court disposition retained only the qualified opportunity for policy representations.**

Final merits dismissal, subsequently followed by dismissal of the taxpayer's direct appeal with the Supreme Court's limited representation observations. The appellate qualification is not a monetary award or a judicial remand.

**Pinpoint:** High Court paragraphs 16–17, p. 29; Supreme Court paragraphs 80–83, pp. 72–73.

### 05 AKHB REVIEW POINT

AKHB analysis: Use this decision together with the direct Supreme Court judgment. Hero Motocorp rejects enforcing the former exemption against Section 174(2)(c)'s proviso and finds no duty to reimburse 100% of CGST.

Keep the former excise value-addition dispute separate from GST budgetary support. Verify the particular unit, implementing notification, commercial-production date, residual period, cash-payment base and applicable Central or State scheme. A policy representation is different from an enforceable claim under an existing scheme. Neither judgment gives every unit support until the scheme's overall closing date, and neither determines a present claim's eligibility or compliance.

**Pinpoint:** AKHB commentary based on High Court paragraphs 1, 9–15 and Supreme Court paragraphs 28–31, 54–58, 64 and 79–81.

## Sources and limitations

### Relevant provisions

Constitution of India: Articles 14, 141 and 226; Article 270(1) appears in submissions. CGST Act 2017: Section 174, particularly Section 174(2)(c) and its proviso; Section 11 is addressed in the direct Supreme Court appeal. Central Excise Act 1944: Section 5A. General Clauses Act 1897: Section 6. Budgetary Support Notification F.No.10(1)/2017-DBA-II/NER dated 5 October 2017; historical excise exemption and amending notifications discussed in the source.

### Statutory note

The High Court's operative reasoning rests on binding precedent; do not recast its account of counsel's Section 174 submissions as a separately reasoned statutory holding. The direct Supreme Court judgment supplies that analysis: paragraphs 28–31 and 54–58 apply the proviso to Section 174(2)(c), while paragraphs 64 and 71 reject the claimed reimbursement duty and the requested exercise of Section 11 discretion. The saving proviso prevents continuation as a privilege of an investment-incentive exemption where its notification is rescinded on or after the appointed day. It does not erase every accrued right under every repealed enactment. Section 174(1) retains an express Entry 84 exception; central excise was not universally abolished.

India Code's Central Act compilation, accessed 13 October 2026, retains the pertinent Section 174(1) exception and Section 174(2)(c) proviso at physical p. 123. This was a targeted web-text check, not a full current-Act or amendment audit. The 58%/29% rates and 42% devolution discussion describe the scheme and historical context before the courts, not universal present reimbursement percentages. The original 2017 scheme, every later amendment, Sikkim's current policy, individual residual eligibility, limitation and representation outcomes were not comprehensively audited. The official PIB release of 29 December 2017 corroborates the historical cash-component percentages and residual-period character, but is not a current consolidated scheme.

### Treatment note

Direct appeal verified from the Supreme Court's freshly downloaded official judgment on 13 October 2026: Civil Appeal No. 7406 of 2022, arising from SLP(C) No. 11978 of 2021, is expressly identified in paragraph 4 as the appeal from this 5 February 2021 judgment in WP(C) 47/2018. It was decided with Hero Motocorp, Civil Appeal No. 7405 of 2022, by B.R. Gavai and B.V. Nagarathna, JJ., on 17 October 2022. Paragraph 81 dismisses both appeals save for paragraphs 72–80; paragraphs 82–83 dispose of pending applications without costs. Paragraphs 73 and 80 recognise a legitimate expectation of due consideration and permit representations, not a legally enforceable entitlement to the missing support. This is direct appellate history, not merely analogous later treatment. The existing AKHB Supreme Court note covers that common decision.

V.V.F. Limited, 22 April 2020, concerned the earlier excise-notification litigation. Its paragraph 7 identifies the prior Sikkim judgment of 21 November 2017; paragraphs 14.2–16 uphold the clarificatory notifications and reverse the relevant High Court judgments. It did not itself decide this later WP(C) 47/2018 appeal. Its protection for certain already-refunded excise amounts in paragraph 16 must not be converted into a GST refund award.

Bounded searches on 13 October 2026 used the exact High Court number/date, Sun Pharma, SLP11978/2021, CA7406/2022, Hero Motocorp, review and overruling terms, including official Supreme Court/Sikkim domains. No verified post-17 October 2022 modification or stay of the direct appellate disposition was established. This is not exhaustive registry or citator clearance. Search hits concerning

Hero's unrelated excise review or TRAN-1/ISD litigation were not treated as review of this decision. A later Star Cement treatment lead was not relied on without a complete official source. No representation filing or outcome is verified.

### Scope of source review

Main source: all 29 retained original physical pages fully read and individually visually inspected; physical and printed judgment pages correspond. Supplementary targeted review of Hero Motocorp: pp. 1–3, 23–26, 52–56, 61, 64–66 and 72–73 read and individually visually inspected; pp. 67–71 additionally read as extracted text. This is not a new full 73-page review. V.V.F.: pp. 1–3, 19 and 49–55 read and individually visually inspected, including the separate two-page Barak Valley order at the end, which is not used as Sun Pharma's disposition; no full 55-page review claimed. Official Sikkim Law Reports identity/citation at physical p. 97 (printed p. 85) and India Code Section 174 at physical p. 123 were checked through web text; attempted screenshots were unavailable. Other cases quoted in the High Court judgment are reported as its reliance, without separate complete reviews.

### Source notes

The retained official PDF has a leading UTF-8 BOM before its PDF header. Its exact bytes are preserved; successful parsing does not establish cryptographic signature validity. The neutral citation 2021:SHC:13-DB is visible on the original page image. SLR (2021) SIKKIM 85 is separately verified from the official reporter and is not a second neutral citation. The judgment quotes substantial passages from the earlier, reversed 2017 High Court decision: those passages are litigation history, not the operative holding of this 2021 dismissal.

Fresh-source limitation: on 13 October 2026 the retained eCourts URL returned a 146-byte HTML response saying the order was not uploaded; direct www/non-www HCS original and reporter PDF requests returned HTTP 502. The official HCS judgment remained retrievable through web-index PDF text, which corroborated identity and disposition, but no fresh binary or all-page equivalence comparison was completed. This is an access limitation, not evidence of an altered or withdrawn judgment. The original download receipt is dated 12 October 2026.

The Supreme Court signed PDF does not print a neutral or SCR citation. This note identifies the direct appeal by its verified numbers/date rather than importing inconsistent secondary citation numbers. The existing AKHB Hero note is cross-referenced for readers; its earlier review is not substituted for the targeted fresh appellate-source checks described here.

### Primary source

**Source description:** Complete 29-page official eCourts judgment retained unchanged. Direct fresh-download comparison remains unavailable; see source notes. The taxpayer's direct appeal was dismissed with qualified representation observations by the Supreme Court on 17 October 2022.

**Official source:** [Open source document](#)

**Source pages:** 29

**Judgment author:** Meenakshi Madan Rai, J.

**Outcome type:** final merits dismissal direct appeal disposed

### Additional source

High Court of Sikkim alternate original judgment endpoint

**Official source:** [Open source document](#)

**Pinpoint:** 29 pages. Web-text identity/disposition corroboration; direct download unavailable on 13 October 2026.

Hero Motocorp Ltd. v. Union of India, with Sun Pharma's direct appeal, Supreme Court, 17 October 2022

**Official source:** [Open source document](#)

**Pinpoint:** CA7405–7406/2022; paragraph 4, pp. 2–3; paragraphs 28–31, pp. 23–26; paragraphs 54–58, pp. 52–56; paragraph 64, p. 61; paragraphs 71–73, pp. 64–66; paragraphs 79–83, pp. 71–73.

AKHB Supreme Court note on Hero Motocorp and Sun Pharma's connected appeal

**Official source:** [Open source document](#)

**Pinpoint:** Related AKHB commentary on the common direct appellate judgment; not a primary court source.

Union of India v. V.V.F. Limited, Supreme Court, 22 April 2020

**Official source:** [Open source document](#)

**Pinpoint:** Paragraph 7, p. 19, identifies the earlier Sikkim litigation; paragraphs 14.2–16, pp. 49–52. Signature/date p. 53.

Sikkim Law Reports, January–February 2021

**Official source:** [Open source document](#)

**Pinpoint:** Physical p. 97, printed p. 85, verifies SLR (2021) SIKKIM 85, title, bench, number and date; targeted web-text citation check only.

CGST Act, India Code official compilation

**Official source:** [Open source document](#)

**Pinpoint:** Physical p. 123, Section 174(1) and (2)(c), including investment-exemption proviso; targeted web-text check on 13 October 2026.

Ministry of Commerce and Industry PIB release, 29 December 2017

**Official source:** [Open source document](#)

**Pinpoint:** Historical confirmation of 58% Central tax and 29% integrated tax cash-component support for the residual period; not a current consolidated scheme.

## Disclosures and source rights

**AI disclosure:** Prepared with AI assistance from the complete official High Court judgment and identified primary sources. No human legal review is claimed.

**General disclaimer:** For professional information only; not legal advice. Read the full judgments and applicable law, verify current orders and obtain case-specific professional advice before acting.

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**Source checked:** 13 October 2026

**Reserved date:** The order of 17 September 2019 reproduced in paragraph 12 records original reservation on 3 September 2019 and holding judgment in abeyance. No separate final reservation date is stated.

## Direct appeal

**Case number:** Civil Appeal No. 7406 of 2022

**Arising from:** SLP(C) No. 11978 of 2021

**Decision date:** 17 October 2022

**Common decision:** Hero Motocorp Ltd. v. Union of India

**Result:** Dismissed save for observations in paragraphs 72–80 permitting representations for expeditious policy consideration; no monetary award.

**Official source:** [Open source document](#)