

HIGH COURT OF SIKKIM : GANGTOK

Record of proceedings

TAX APP. NO.01 OF 2025

COMMISSIONER OF CENTRAL GOODS AND
SERVICE TAX AND CENTRAL EXCISE

APPELLANT (S)

VERSUS

M/S. ZYDUS HEALTHCARE LIMITED

RESPONDENT (S)

For Appellant : Mr. Manish Kumar Jain, Advocate.

For Respondent : Mr. Rahul Tangari, Ms. Gita Bista, Ms. Pratikcha Gurung, Ms. Anusha Basnett, Ms. Anu Sharma and Mr. Dipendra Chettri, Advocates.

Date : 08-05-2025

CORAM :

**HON'BLE MR. JUSTICE BISWANATH SOMADDER, CHIEF JUSTICE
HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE**

...

ORDER : (per the Hon'ble, the Chief Justice)

This statutory appeal has been filed by the Commissioner of Central Goods and Service Tax and Central Excise, Siliguri Commissionerate, against a final order dated 28th June, 2023, passed by the learned Customs, Excise and Service Tax Appellate Tribunal, Kolkata (for short, "CESTAT"), in Excise Appeal No.75702 of 2022. The learned CESTAT has *inter alia* held therein that the rejection of the applications filed by the appellant (M/s. Zydus Healthcare Limited) for special rate fixation on the ground that they have foregone such option is legally not tenable. Accordingly, the learned Tribunal held that the impugned order was liable to be set aside and the matter was remanded to the Commissioner to decide the request for special rate fixation applications of the appellant (M/s. Zydus Healthcare Limited) on merit. This final order is now the subject matter of the present appeal before this Court.

We now refer to section 35G(1) of the Central Excise Act, 1944, which reads as follows:-

"35G. Appeal to High Court.—(1) An appeal shall lie to the High Court from every order passed in appeal by

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the Appellate Tribunal on or after the 1st day of July, 2003 (not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of excise or to the value of goods for the purposes of assessment), if the High Court is satisfied that the case involves a substantial question of law.”

A bare perusal of the above provision of law clearly reveals that no appeal shall lie before the High Court from any order passed by the learned Tribunal (on or after the 1st day of July, 2003) if it is an order which relates among other things to the determination of any question having a relation to the rate of duty of excise or to the value of goods for the purposes of assessment.

Since the matter relates to valuation, we are of the view that this High Court has no jurisdiction to entertain or try or determine the issue as sought to be raised by the Commissioner of Central Goods and Service Tax and Central Excise, Siliguri.

In such circumstances, we grant liberty to the appellant to approach the Hon'ble Supreme Court of India for redressal of their grievances, if any, in accordance with law.

The Tax App. No.01 of 2025, stands accordingly disposed of.

**(Meenakshi Madan Rai)
Judge**

**(Biswanath Somadder)
Chief Justice**