

**THE HIGH COURT OF SIKKIM : GANGTOK**  
(Civil Extra Ordinary Jurisdiction)

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**SINGLE BENCH: THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE**  
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**W.P.(C) No. 20 of 2022**

Zydus Wellness Products Limited,  
Represented through:  
Umesh Parikh,  
Chief Financial Officer,  
Zydus Wellness Products Limited,  
Zydus Corporate Park,  
Scheme No. 63, Survey No. 536,  
Khoraj (Gandhinagar),  
Near Vaishnodevi Circle,  
Ahmedabad, Gujarat – 382481.

..... Petitioner

***versus***

1. Union of India,  
Through the Secretary,  
Department of Revenue,  
Ministry of Finance,  
North Block,  
New Delhi – 110001.
2. Director,  
Department for Promotion of Industry and Internal Trade,  
Ministry of Commerce and Industry,  
Udyog Bhawan,  
New Delhi – 110001.
3. The Assistant Commissioner,  
Central Goods & Service Tax,  
Gangtok Division, Gangtok,  
Indira By-Pass Road,  
Near District Court, Sichey,  
East Sikkim, Gangtok – 737101.
4. The Commissioner of CGST,  
Siliguri, Gangtok Division,  
Gangtok II Range – 737101.
5. Central Board of Indirect Taxes & Customs,  
Through its Commissioner,  
Room No. 22A, II Floor, North Block,  
New Delhi – 110001.

..... Respondents

**Application under Article 226 of the Constitution of India**

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**Appearance:**

Dr. Ashok Saraf, Senior Advocate with Mr. Pritam Baruah, Mr. Mayank Jain, Ms Akshita Shetty and Mr. Hissey Gyaltsen, Advocates for the petitioner.

Ms Sangita Pradhan, Deputy Solicitor General of India assisted by Ms Natasha Pradhan, Advocate for the respondents.

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*and*

**W.P.(C) No. 27 of 2022**

Alkem Laboratories Limited,  
Represented through:  
Ajay Kumar Prasad,  
General Manager – Accounts,  
Alkem Laboratories Limited,  
Alkem House, Senapathi Bapat Marg,  
Lower Parel, Mumbai,  
Maharashtra - 400013

..... Petitioner

*versus*

1. Union of India,  
Through the Secretary,  
Department of Revenue,  
Ministry of Finance, North Block,  
New Delhi – 110001.
2. Director,  
Department for Promotion of Industry and Internal Trade,  
Ministry of Commerce and Industry,  
Udyog Bhawan,  
New Delhi – 110001.
3. The Assistant Commissioner,  
Central Goods & Service Tax,  
Gangtok Division, Gangtok,  
Indira By-Pass Road,  
Near District Court, Sichey,  
East Sikkim, Gangtok – 737101.
4. The Deputy Commissioner,  
Central Goods & Service Tax,  
Gangtok Division, Gangtok,  
Indira By-Pass Road,  
Near District Court, Sichey,  
East Sikkim, Gangtok – 737101.

5. The Commissioner of CGST,  
Siliguri, Gangtok Division,  
Gangtok II Range – 737101.
6. Central Board of Indirect Taxes & Customs,  
Through its Commissioner,  
Room No. 22A, II Floor,  
North Block,  
New Delhi – 110001. .... Respondents

**Application under Article 226 of the Constitution of India**

**Appearance:**

Mr. Vivek Sarin, Advocate with Mr. Hissey Gyaltzen and Mr. Akath Gupta,  
Advocates for the petitioner.

Ms Sangita Pradhan, Deputy Solicitor General of India assisted by Ms  
Natasha Pradhan, Advocate for the respondents

Date of hearing : 17<sup>th</sup> August, 2023  
Date of judgment : 12<sup>th</sup> September, 2023

## J U D G M E N T

***(Bhaskar Raj Pradhan, J.)***

**1.** The two writ petitions are taken up for consideration. W.P. (C) No. 20 of 2022 has been preferred by *Zydus Wellness Products Limited* while W.P. (C) No. 27 of 2022 has been preferred by *Alkem Laboratories Limited*.

**2.** In the case of *Zydus Wellness Products Limited*, on 28<sup>th</sup> February 2019, *Zydus Wellness-Sikkim* - a Partnership Firm, was converted into *Zydus Nutritions Limited*, pursuant to sub-section (2) of section 7 of the Companies Act, 2013 and Rule 18 of the Companies (Incorporation) Rules, 2014.

Thereafter, on 4<sup>th</sup> June, 2019, Zydus Nutritions Limited changed its name to *Zydus Wellness Products Limited* pursuant to Rule 29 of the Companies (Incorporation) Rules, 2014. *Zydus Wellness Products Limited* seeks budgetary support under the 'Scheme of Budgetary Support dated 05.10.2017' (the *Budgetary Support Scheme*), for the 'residual period' for which Zydus Wellness Sikkim was entitled to exemption under Notification No. 20/2007-C dated 25.4.2007.

**3.** In the case of *Alkem Laboratories Limited*, in October 2019, Unit-V was transferred by way of slump sale from Cachet Pharmaceuticals Private Limited - the transferee company, to *Alkem Laboratories Limited* on a running and going concern basis under section 54 of the Transfer of Property Act, 1882. The petitioner seeks direction to allocate fresh Unique Identity (UID) for Unit-V of the petitioner and to process the verification and claim applications under the *Budgetary Support Scheme* for the 'residual period' for which Cachet Pharmaceuticals Private Limited was entitled to exemption under Notification No. 20/2007-C dated 25.4.2007.

**4.** The changes in case of *Zydus Wellness Products Limited* as well as *Alkem Laboratories Limited* entailed grant of fresh UID and change in the registration number. This is an admitted fact.

**5.** The short question which arises for consideration in both the writ petitions is - *Are the petitioners entitled to the budgetary support under the Budgetary Support Scheme?*

**6.** The petitioners contend that the change of ownership and therefore, the grant of fresh UID and registration number do not disentitle the units from availing the budgetary support as the *Budgetary Support Scheme* seeks to provide budgetary support to 'eligible units' and not to the owners thereof. The respondents are, however, insistent that because of the change in ownership the petitioners are not entitled anymore as ownership has changed and the petitioners are completely new legal entities.

**7.** Dr. Ashok Saraf, learned Senior Advocate for *Zydus Wellness Products Limited* submitted that the only criteria to be satisfied for the benefit of the *Budgetary Support Scheme* was that the unit must be an 'eligible unit' at the time of transition to GST on 1.7.2017 and the benefit would be for the 'residual period'. He further submitted that the

change in constitution from a partnership concern to a company cannot disentitle it from the benefit of the *Budgetary Support Scheme* which is clear from the fact that they were earlier given the benefit. Even with the change in the constitution, the business, assets and liabilities vested on *Zydus Wellness Products Limited* and therefore, only the name of the Company changed on 4.6.2019. It is further submitted that when an assessee is held to be eligible for obtaining the benefit, the amended notification being an exempted notification should receive beneficial construction. Dr. Saraf further submitted that although exemption provisions are to be construed strictly as regards the applicability thereof to the case of the assessee but once it is found that the same is applicable, it is required to be interpreted liberally. He relied upon *P.R. Prabhakar vs. CIT, Coimbatore*<sup>1</sup>, *TATA Iron & Steel Co. Ltd. vs. State of Jharkhand*<sup>2</sup> and *Government of India vs. Indian Tobacco Association*<sup>3</sup>. He also relied upon various judgments of the Supreme Court on how exemption notifications ought to be interpreted: *Commissioner of Customs (Imports), Mumbai vs. Tullow India Operations Ltd.*<sup>4</sup>, *Assistant Commissioner (CT) LTU & Anr. vs.*

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<sup>1</sup> (2006) 6 SCC 86

<sup>2</sup> (2005) 4 SCC 272

<sup>3</sup> (2005) 7 SCC 396

<sup>4</sup> (2005) 13 SCC 789

*Amara Raja Batteries Ltd.*<sup>5</sup>, *Commissioner of Customs (Preventive), Gujarat vs. Reliance Petroleum Limited and Bajaj Tempo Ltd.*<sup>6</sup>, and *Bajaj Tempo Ltd., Bombay vs. Cit, Bombay City III Bombay*<sup>7</sup>.

8. The learned Deputy Solicitor General of India submitted that *Zydus Wellness Products Limited* came into existence after change in its constitution from partnership firm to private limited company. Unit to be declared as an 'eligible unit' under the *Budgetary Support Scheme* is synonymous with the company which runs it. As Zydus Wellness-Sikkim had stopped operation as partnership firm and *Zydus Wellness Products Limited* had taken over, the erstwhile unit without making any investment cannot be considered as an 'eligible unit'. It is submitted that the Ministry of Finance and Ministry of Commerce had both unanimously opined that change in constitution and ownership disentitled them from the *Budgetary Support Scheme* as it was a new company having separate GSTIN and PAN number.

9. Mr. Vivek Sarin, learned counsel for *Alkem Laboratories Limited*, submits that Circular or Office Memorandum cannot take away or restrict the effect of

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<sup>5</sup> (2009) 8 SCC 209

<sup>6</sup> (2008) 7 SCC 220

<sup>7</sup> (1992) 3 SCC 78

*Budgetary Support Scheme*. He further argued that change of ownership or slump sale of unit is immaterial as the *Budgetary Support Scheme* is unit based and not ownership based scheme. He relied upon the judgment of the Uttarakhand High court in ***Dana India Pvt. Ltd. vs. Union of India***<sup>8</sup>, to show that in similar cases it was held that exemption should be based on unit and not on ownership. The learned counsel submitted that an exemption should be liberally construed in accordance with the object sought to be achieved if such provision is to grant incentive for promoting economics.

**10.** The learned Deputy Solicitor General of India in reply submitted that since *Alkem Laboratories Limited* came into existence with effect from 5.10.2019, when it took over Cachet Pharmaceuticals Private Limited, the petitioner does not qualify as 'eligible unit'. It is submitted that on the acquisition of the unit from Cachet Pharmaceuticals Private Limited, the acquired unit became a new manufacturing unit. It is stated that the *Budgetary Support Scheme* was a measure of goodwill only to those units which were eligible for drawing benefit under the earlier excise duty exemption/refund schemes but had otherwise no relation to

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<sup>8</sup> 2013 (298) E.L.T. 710 (Uttarakhand)



the erstwhile schemes. There has been admittedly change of ownership, PAN number, as well as GSTIN. It is submitted that as held by the Supreme Court in ***Union of India vs. VVF Industries and others***<sup>9</sup>, withdrawal of exemption being in public interest and therefore a matter of policy, the Court would not bind the earlier government policy for all times to come irrespective of the satisfaction of the government that the change in policy was necessary in public interest.

**11.** The learned counsel for the petitioners have also referred to several judgment of various High Courts and Tribunals in support of their contentions. This Court has examined all of them. None of these judgments relate to the *Budgetary Support Scheme*. None of the ratios laid down would apply to the facts of the present writ petitions. The judgments of the Supreme Court cited with regard to interpretation of exemption notification are well settled pronouncements. The *Budgetary Support Scheme* is only a concession and not an exemption. The *Budgetary Support Scheme* would also however be liable to be strictly construed keeping in mind the intention of the Government of India for providing the budgetary support to 'eligible units'.

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<sup>9</sup> (2020) 20 SCC 57

**12.** In *Dana India Pvt. Ltd.* (supra), the petitioner entered into a slump sale agreement with M/s Axles India Limited to take over and operate as a growing concern the Axles business from the latter, w.e.f., 1.7.2011 and they wished to continue to avail exemption under Central Excise Notification by which exemption was being availed by Axles India Limited. The High Court allowed the writ petition in view of the circular issued by the Central Board of Excise & Customs (CBEC) as the petitioner had already exercised option in writing to avail of the benefit of exemption notification before effecting the first clearance and it was found that the petitioner was entitled for the exemption. No such circular has been issued in favour of the petitioners.

**13.** According to the *Budgetary Support Scheme*, in pursuance of the decision of the Government of India to provide budgetary support to 'the existing eligible manufacturing units' operating *inter alia* in Sikkim under different Industrial Promotion Schemes of the Government of India, for a residual period for which each of the 'units' is eligible, a new scheme is being introduced. The new scheme is offered, as a measure of good will, only to the 'units' which were eligible for drawing benefits under the earlier exercise

duty exemption/refund schemes but has otherwise no relation to the erstwhile schemes.

**14.** Units which were eligible under the erstwhile schemes and were in operation through exemption notifications issued by the Department of Revenue in the Ministry of Finance as listed in paragraph 2 (which includes Sikkim) would be considered eligible under the *Budgetary Support Scheme*. The *Budgetary Support Scheme* was to be limited to the tax which accrues to the Central Government under *the* Central Goods and Services Tax Act, 2017 (the CGST Act, 2017) and the Integrated Goods and Services Tax Act, 2017 (the IGST Act, 2017), after devolution of the Central Tax or the Integrated Tax to the States, in terms of Article 270 of the Constitution.

**15.** The *Budgetary Support Scheme* was under the Goods and Services Tax (GST) Regime to the units located *inter alia* in Sikkim. It came into operation with effect from 01.07.2017 for an 'eligible unit' and was to remain in operation for the 'residual period'. Both the words 'eligible unit' and the 'residual period' were defined in the scheme.

**16.** Paragraph 4.1 of the *Budgetary Support Scheme* defined eligible unit as under:-

*“4.1 ‘Eligible unit’ means a unit which was eligible before 1<sup>st</sup> day of July, 2017 to avail the benefit of ab-initio-exemption or exemption by way of refund from payment of central exercise duty under notifications, as the case may be, issued in this regard, listed in para 2 above and was availing the said exemption immediately before the 1<sup>st</sup> day of July, 2017. The eligibility of the unit shall be on the basis of application filed for budgetary support under this scheme with reference to:*

- (a) Central Excise registration number, for the premises of the eligible manufacturing unit, as it existed prior to migration to GST; or*
- (b) GST registration, for the premises as a place of business, where manufacturing activity under exemption notification no.49/2023-CE dated 10.6.2003-CE and 50/2003-CE dated 10.6.2003 were being carried prior to 01.07.2017 and the unit was not registered under Central Excise.”*

**17.** Paragraph 4.3 defined residual period as follows:

*“4.3 ‘Residual period’ means the remaining period out of the total period not exceeding 10 years, from the date of commencement of commercial production, as specified under the relevant notification listed in paragraph 2, during which the eligible unit would have been eligible to avail exemption for the specified goods. The documentary evidence regarding date of commercial production shall be submitted in terms of para 5.7.”*

**18.** Paragraph 2.3 provides that Notification No.20/2007-CE dated 25.4.2007 as amended from time to time was the scheme which was in operation on 18.7.2017 in the State of Sikkim.

**19.** As paragraph 4.3 which defines ‘residual period’ relates the ‘residual period’ to the period during which the eligible unit would have been eligible to avail exemption for the ‘specified goods’ it would be relevant to extract paragraph 4.2 which defines ‘specified goods’ as under:

“4.2 ‘Specified goods’ means the goods specified under exemption notifications, listed in paragraph 2, which were eligible for exemption under the said notifications, and which were being manufactured and cleared by the eligible unit by availing the benefit of excise duty exemption, from:

- (a) The premises under Central Excise with a registration number, as it existed prior to migration to GST; or
- (b) The manufacturing premises registered in GST as a place of business from where the said goods under exemption notification no.49/2003-CE dated 10.06.2003 and 50/2003-CE dated 10.06.2003 were being cleared”

**20.** As paragraph 4.3 which defines ‘residual period’ provides that the documentary evidence regarding date of commercial production shall be submitted in terms of paragraph 5.7, the said paragraph is quoted hereinbelow:

“5.7. The manufacturer applying for benefit under this scheme for the first time shall also file the following documents:

- (a) the copy of the option filed by the manufacturer with the jurisdictional Deputy Commissioner/Assistant Commissioner of Central Excise officer at the relevant point of time, for availing the exemption notification issued by the Department of Revenue;
- (b) document issued by the concerned Director of Industries evidencing the commencement of commercial production
- (c) the copy of last monthly/quarterly return for production and removal of goods under exemption notification of the Department of Revenue.
- (d) an Affidavit-cum-indemnity bond, as per Annexure A, to be submitted on one time basis, binding itself to pay the amount repayable under para 9 below.

Any other document evidencing the details required in clause (a) to (c) may be accepted with the approval of the Commissioner.”

**21.** Paragraph 5.7 above mandates that it was the manufacturer who was required to apply for benefit under the *Budgetary Support Scheme*.

**22.** Paragraph 7 provides for the manner of budgetary support and reads as under:

*“7.1 The manufacturer shall file an application for payment of budgetary support for the Tax paid in cash, other than the amount of Tax paid by utilization of Input Tax Credit under the Input Tax Credit Rules, 2017, to the Assistant Commissioner or Deputy Commissioner of Central Taxes, as the case may be, by the 15<sup>th</sup> day of the succeeding month after end of quarter after payment of tax relating to the quarter to which the claim relates.*

*7.2. The Assistant Commissioner or Deputy Commissioner of Central Taxes, as the case may be, after such examination of the application as may be necessary, shall sanction reimbursement of the budgetary support. The sanctioned amount shall be conveyed to the applicant electronically. The PAO, CBEC will sanction and disburse the recommended reimbursement of budgetary support.”*

**23.** Paragraph 5.8 defines ‘manufacture’ as any change(s) in the physical object resulting in transformation of the object into a distinct article with a different name or bringing a new object into existence with a different chemical composition or integral structure.

**24.** As the *Budgetary Support Scheme* has been issued under the Goods and Services Tax Regime to the units located in, *inter alia*, the State of Sikkim, it would be relevant to consider some of the provisions of the CGST Act, 2017).

**25.** Section 2(72) defines the word ‘manufacture’ as under:

*““manufacture” means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term “manufacturer” shall be construed accordingly;”*

**26.** The term ‘manufacturer’ as used in *Budgetary Support Scheme* would thus mean the ‘person’ who or which brings about any change(s) in the physical object resulting in transformation of the object into a distinct article with a different name of bringing a new object into existence with a different chemical composition or integral structure.

**27.** Section 2(84) defines the word ‘person’ as under:

*“person” includes –*

- (a) an individual;*
- (b) a Hindu Undivided Family;*
- (c) a company;*
- (d) a firm;*
- (e) a Limited Liability Partnership;*
- (f) an association of persons or a body of individuals, whether incorporated or not in India or outside India;*
- (g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013);*
- (h) any body corporate incorporated by or under the laws of a country outside India;*
- (i) a co-operative society registered under any law relating to co-operative societies;*
- (j) a local authority;*
- (k) Central Government or a State Government;*
- (l) society as defined under the Societies Registration Act, 1860 (21 of 1860);*
- (m) trust; and*
- (n) every artificial juridical person, not falling within any of the above;”*

**28.** Consequently, it is evident that Zydus Wellness – Sikkim as well as Zydus Nutritions Limited (later *Zydus Wellness*

*Products Limited*) and Cachet Pharmaceuticals Private Limited as well as *Alkem Laboratories Limited* were all 'persons' as defined in section 2(84) of the CGST Act, 2017.

**29.** Section 22 of the CGST Act, 2017 provides for registration of 'persons' as defined under section 2(84). Every supplier shall be liable to be registered in the State or Union Territory other than special categories States from where he makes a taxable supply of goods or services or both, if his aggregate turn over in a financial year exceeds twenty lakhs rupees.

**30.** Zydus Wellness – Sikkim as well as Zydus Nutritions Limited (later *Zydus Wellness Products Limited*) and Cachet Pharmaceuticals Private Limited as well as *Alkem Laboratories Limited*, would thus be required to mandatorily register itself under section 22 of the CGST Act, 2017. Admittedly, all the 'persons' at different points of time did so.

**31.** The respondents have filed their counter-affidavits. In the case of *Zydus Wellness Products Limited*, it is contended that on its conversion from a partnership entity to a company limited by shares on 28.02.2019 they were not clear as to whether it could be considered as 'eligible unit'



and accordingly a reference was made to Central Board of Indirect Taxes and Customs (CBIC). The matter was examined by DIPP, Ministry of Commerce in consultation with CBIC and it was decided that as per guidelines of the *Budgetary Support Scheme*, if any unit undergoes for relocation, expansion and change of ownership, it will not be eligible under the *Budgetary Support Scheme*. The CBIC, therefore, opined that Zydus Nutritions Limited (later *Zydus Wellness Products Limited*) was not eligible for *Budgetary Support Scheme*.

**32.** Similarly, in the case of *Alkem Laboratories Limited*, it was also held that if any unit undergoes relocation, expansion and change of ownership, it will not be eligible under the scheme of budgetary support. Accordingly, the *CBIC* had also opined that *Alkem Laboratories Limited* Unit-V was not eligible for *Budgetary Support Scheme*.

**33.** Notification No.20/2007-CE dated 25.04.2007 for the North East States including Sikkim was issued in exercise of the powers conferred by sub-section (1) of section 5A of the Central Excise Act of 1944 in public interest. It exempted the goods specified in the First Schedule to the Central Excise Direct Tax, 1985 other than those mentioned

in the Annexure and cleared from a unit located *inter alia* in the State of Sikkim from so much of the duty of exercise leviable thereon under the said Act as is equivalent to the duty payable on value addition undertaken in the manufacture of the said goods by the said unit.

**34.** The exemption under Notification No. 20/2007-CE was given to the manufacturer who was required to submit a statement of the total duty paid and that paid by utilization of CENVAT credit to the Assistant Commissioner of the Central Excise or Deputy Commissioner of the Central Excise.

**35.** A composite reading of the *Budgetary Support Scheme* along with the exemption notification no.20/2007-CE makes it clear that Government of India had decided to provide budgetary support to the existing manufacturing unit operating in Sikkim under different Industrial Promotional Schemes of the Government of India, for the “residual period for which each of the unit is eligible”. Quite evidently, it was a support given to the existing manufacturing units operating in Sikkim since the said units had not been able to enjoy the full benefit of exemption notification no.20/2007-CE for the entire period. The *Budgetary Support Scheme* therefore was a

measure of goodwill only to the units which were eligible for drawing benefits under the earlier excise duty exemption/refund schemes but has otherwise no relation to the erstwhile schemes.

**36.** *Budgetary Support Scheme* was limited to the tax which accrued to the Central Government under the CGST Act, 2017 and IGST Act, 2017, after devolution of the Central Tax or the Integrated Tax to the States, in terms of Article 270 of the Constitution.

**37.** Paragraph 7.1 of the *Budgetary Support Scheme* mandates the manufacturer to file the application for budgetary support. The definition of 'eligible unit' in Paragraph 4.1 also provides that the application must have reference to either the Central Excise registration number of the eligible manufacturing unit as it existed prior to migration to GST or GST registration for the premises as a place of business where manufacturing activities under the exemption notification no.49/2003-CE dated 10.06.2003 and 50/2003-CE dated 10.06.2003 were being cleared. This was definitely related to the manufacturer or the 'person' registered. The definition of 'residual period' also relates to the remaining period out of the total period not exceeding ten

years from the date of commercial production. The documentary evidence regarding date of commercial production in terms of paragraph 5.7 also relates to the option filed by the manufacturer at the relevant point of time for availing the exemption notification. This would thus mean the date of commercial production of Zydus Wellness-Sikkim the partnership firm and Cachet Pharmaceuticals Private Limited and not the present petitioners.

**38.** Under the *CGST Act, 2017*, it is the 'person' as defined under section 2(84) who is liable to the tax thereunder. Consequently, the *Budgetary Support Scheme* which is limited to the tax which accrues to the Central Government under the *CGST Act, 2017* and *IGST Act, 2017* is liable to be paid by the 'person'. Reading the definition of 'person' under section 2(84) and the requirement of registration under section 22 of such 'persons' makes it clear that Zydus Nutritions Limited (later *Zydus Wellness Products Limited*) and *Alkem Laboratories Limited* were required to be registered under section 22 after the change in ownership. Accordingly and admittedly, Zydus Nutritions Limited was registered under Rule 10(1) on 26.03.2019 and *Alkem Laboratories Limited* on 3.10.2019. Consequently, both the

petitioners who were separate and distinct legal entities from the previous 'persons', i.e., Zydus Wellness-Sikkim and Cachet Pharmaceuticals Private Limited, who were eligible under exemption notification 20/2007-CE could not have filed the application for budgetary support under paragraph 7 of the *Budgetary Support Scheme*. The petitioners, as rightly contended by the respondents, were not 'eligible units' as defined under paragraph 4.1 of the budgetary scheme. The intention of the Government of India in providing the *Budgetary Support Scheme* was to support those 'eligible units' for the 'residual period' not exceeding ten years of commercial production during which they would have been eligible to avail exemption for the specified goods under exemption notification no. 20/2007-CE in recognition of the hardship arising due to its withdrawal. Clearly, the exemption under exemption notification no. 20/2007-CE was to those manufacturers who have made investments in the State of Sikkim. The untimely withdrawal of exemption notifications before the manufacturers could enjoy its benefits for its full term as the new GST regime came in, persuaded the Government of India to provide budgetary support to those 'eligible units' and not to those who have not made any investment to be able to enjoy the benefit of the

exemption notification no. 20/2007-CE for the 'residual period'. Neither *Zydus Wellness Products Limited* nor *Alkem Laboratories Limited* could legally claim that they were entitled to the exemption under the exemption Notification No. 20/2007-CE as they did not exist then.

**39.** Both the writ petitions preferred by *Zydus Wellness Products Limited* and *Alkem Laboratories Limited* are accordingly dismissed. The respondents shall with regard to *Alkem Laboratories Limited* dispose of the claim applications as well as any other application pending before it in terms of this judgement.

**( Bhaskar Raj Pradhan )**  
**Judge**

Approved for reporting : **Yes/No**  
Internet : **Yes/No**

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