

GST panel, States may consider industry plea to honour excise incentives: SC

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The Supreme Court has urged the GST Council and State governments to consider a plea for reimbursement of taxes paid by industrial houses with plants in hilly States such as Uttarakhand and Himachal Pradesh and the North-East.

However, it rejected pleas of Hero Motocorp and Sun Pharma for 100 per cent budgetary support for excise exemption while dismissing pre-GST era 'promissory estoppel' argument.

The companies filed appeals against the rulings of the Delhi and Sikkim High Courts rejecting their claim of 100 per

cent budgetary support *in lieu* of the pre-existing 100 per cent outright excise duty exemption for ten years from the date of the commencement of commercial production. This exemption was provided by an office memorandum of 2003 issued by the Centre.

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Hero Motocorp set up a unit at Haridwar (Uttarakhand) where it started commercial production from April 7, 2008. It availed 100 per cent exemption until GST regime came into existence and the benefit being enjoyed by Hero was reduced to 58 per cent through the Budgetary Support Policy. The same happened with two units of Sun Pharma (which

began production on April 20, 2009 and April 14, 2014). A Division Bench of the Supreme Court noted, "It will be appropriate that such States should also consider correspondingly reimbursing such units out of the share of revenue received by them through devolution from the Centre. We further find that it will also be appropriate that the GST Council considers making appropriate recommendations to the States in that regard."

The bench permitted the companies to make representations to GST Council and the State Governments. It also requested constitutional bodies to "to consider such representations, if made, in an expeditious manner."