HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

WP(C) No. 1074/2024 c/w
WP(C) No.1071/2024
WP(C) No.1075/2024
WP(C) No.1076/2024
WP(C) No.1077/2024
WP(C) No.1078/2024
WP(C) No.1079/2024
WP(C) No.1099/2024
WP(C) No.1100/2024
WP(C) No.1101/2024

Reserved on 10.09.2025
Pronounced on 30.09.2025.
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R.K.Ispat Ltd. through Ram Avtar Aggarwal
Silklon Processors Pvt. Ltd. through Vikrant Sharma
Chenab Industries Pvt. Ltd. through Kush Aggarwal
Jyotsana Industries Pvt. Ltd through Sajan Marriya
J&K Textorium Pvt. Ltd. through Rajesh Kumar
J&K Synthetic Pvt. Ltd. through Rajesh Kumar
M/S Natural Industries through Ram Avtar Aggarwal
Toplon Industries Pvt. Ltd. through Kush Aggarwal
Orbit Spinning Pvt. Ltd. through Sajan Marriya
Green Textorium Pvt. Ltd. through Rajesh Kumar

Petitioners

Through: - Mr. Jatin Mahajan Advocate.

Vs.

Union of India and others
Union of India and others
Union of India and others
Union of India and others
Union of India and others
Union of India and others
Union of India and others
Union of India and others
Union of India and others
Union of India and others

…Respondent(s)

Through: - Mr. Jagpaul Singh CGSC

CORAM: **HON'BLE MR. JUSTICE SANJEEV KUMAR,JUDGE**
HON'BLE MR. JUSTICE SANJAY PARIHAR JUDGE

JUDGMENT

Sanjeev Kumar, J

WP(C) No. 1074/2024

1 The petitioners are either firms or companies registered under the Companies Act, 2013 and engaged in the business of manufacturing and trading of various goods falling within the purview of the Central Goods and Services Tax Act, 2017 ["CGST ACT of 2017"] and the State Goods and Services Tax Act, 2017 ['SGST Act of 2017"]. The petitioner are aggrieved of and has challenged the show cause notice dated 17.04.2024 issued in Form GST DRC-01 by the Joint Commissioner, CGST Commissionerate, Jammu, and the summary thereof issued in Form GST GRC-01 dated 31.03.2024.

2 The aforesaid show cause notice, as well as its summary have been challenged by the petitioner on the following grounds:

(i) That the impugned show cause notice as well as its summary are without any authority, inasmuch as the proper officers under CGST Act have no jurisdiction to initiate any proceedings under the Act, for the reason that the petitioner is assigned to the State Tax Authorities of J&K;

(ii) That the Joint Commissioner, CGST Jammu,also lacks jurisdiction to issue the impugned notices in view of the circular dated 09.02.2018 issued by the Government of

India, Ministry of Finance, Department of Revenue as the amount involved is below Rs.1.00 crore;

(iii) That bunching of show cause notice dated 31.03.2024 for five assessment years, starting from 2017-18 to 2021-22, is not permissible in terms of Section 74 of the CGST ACT, 2017.

3 Before we advert to the grounds of challenge urged by Mr. Jatin Mahajan, learned counsel appearing for the petitioner, we deem it appropriate to briefly record the relevant facts as are germane to the decision of controversy raised in this petition.

4 Pursuant to certain intelligence inputs gathered by the CGST Commissionerate, Jammu, it was found that 12 companies/firms registered with the Goods and Services Tax Department were engaged in fraudulent availment and utilization of bogus Input Tax Credit (ITC) of GST on the basis of mere paper transactions, without any actual supply or receipt of goods among themselves. Accordingly, they were all put on show cause notices issued by the Joint Commissioner, CGST Jammu, calling upon them to explain as to why penalty should not be imposed under various provisions of the CGST Act, 2017, as indicated in the show cause notices.

5 From a perusal of the show cause notice, it is evident that the Authorities under the CGST Act, 2017 acted upon the intelligence inputs and conducted search operations under Section 67(2) of the Act at the business premises of all twelve companies/firms, including that of the petitioner. It needs to be noted that all 12 companies have their registered addresses falling within the Jammu and Kashmir Integrated Textile Park, Kathua, which has a single entry and exit gate. During the course of the search operations, one Shri Kush Aggarwal, Director

of M/s Chinab Industries Private Limited, was present and claimed himself to be the authorized signatory of the other eleven firms/companies as well. It was also found that out of the 12 units searched, only two units, namely M/s Chenab Machinery and Engineering Private Ltd. and M/s Natural Industries, were found functional. M/s Silklon Processor Pvt. Ltd. and M/s Natural Industries were found to have done a multiplicity of transactions between each other to achieve the targeted turnover of M/s Natural Industries. Similarly, in the case of M/s Orbit Spinning Pvt. Ltd., it was found that only 10–15% of its turnover pertained to manufacturing activities, while 85–90% related to trading. The petitioner, M/s R.K. Spat Ltd., was not found to have any permission from the District Industries Centre (DIC), Kathua to undertake fabrication activities. There were other discrepancies and irregularities noticed in respect of the remaining units as well.

6 The intelligence inputs and materials collected during the search operations clearly indicated that all the 12 units, including the petitioner, were involved in fraudulent availment and utilization of bogus ITC of GST through paper transactions, without actual receipt or supply of goods among themselves. This formed the basis for issuance of the show cause notices against all the 12 companies/firms i.e., petitioners herein. However, instead of contesting the show cause notice in accordance with law, the petitioners chose to directly approach this Court by way of the instant proceedings under Article 226 of the Constitution of India, challenging the impugned show cause notice on the grounds which we have taken note of hereinabove.

Questions:

7 Having heard learned counsel for the parties and perused the material on record, we are of the considered opinion that the following questions arise for determination in these petitions:

> **(i) Whether the issuance of a specific notification for cross-empowerment under Section 6 of CGST of 2017 and SGSTAct, 2017 is mandatory, and in the absence thereof, whether a proper officer under CGST Act can exercise jurisdiction in respect of an assessee assigned to the State/UT authorities and vice versa ?.**
>
> **(ii) Whether bunching of show cause notice under Section 74 of the CGST Act is permissible under law ?**
>
> **(iii) Whether the Joint Commissioner is an authority competent to issue a show cause notice to the assessee where the amount involved is less than Rs.1.00 crore under the CGST Act?**

Background of legislations i.e CGST & SGCT Acts:

8 Before we address the questions of law formulated above, a brief background leading to the introduction of the Goods and Services Tax regime in India would be worthwhile.

9 Prior to the introduction of GST, India followed a dual and mutually exclusive indirect tax system. The central taxes leviable under the central laws, such as Central Excise and Service Tax, were administered by the Centre, whereas the States exercised authority over value added tax/sales tax laws. The bifurcation of powers was constitutionally ordained, stemming from the division of legislative competencies under the Seventh Schedule of the Constitution. The structure under the State and Central legislations ensured clear

demarcation of jurisdiction between the Centre and the States, leaving no scope for provisions like cross-empowered of tax officers. To put it succinctly, the central tax authorities had no jurisdiction and control over the assessees for the taxes under the State Tax Laws and vice versa. With a view to providing a constitutional basis to the Goods and Services Tax regime in India, the Parliament introduced, inter alia, Articles 246A, 269A and 279A in the Constitution by the Constitution (101st Amendment) Act, 2016.

Constitutional Framework

10 As per Article 246A of the Constitution, both the Parliament and the State Legislatures are empowered to make laws with respect to Goods and Services Tax imposed by the Union or by such State. This obviates the need to visit the Seventh Schedule for exploring the legislative competence to impose taxes of different kinds. The Article introduces the principle of simultaneous levy and did away with exclusivity of subject matter in respect of supply of goods and services. However, under Article 269A of the Constitution, the power to make laws in respect of inter-State supply of goods and services is reserved exclusively to the Parliament, though the taxes collected on goods and services in the course of inter-State trade are to be ultimately apportioned between the Union and the States. Article 279A provides for the constitution of a federal body, namely the Goods and Services Tax Council ["GST Council"], which would be a body to make recommendations to the Union and the States on model Goods and Services Tax laws, principles of levy, apportionment of Goods and Services Tax levied

on supplies in the course of inter-State trade or commerce under Article 269A of the Constitution, and the principles that govern the place of supply.Prior to the implementation of the GST regime, the GST Council had conducted 80 meetings, broadly laying down the administrative framework under the GST legislations.

Administrative Framework

11 Deriving legislative competence from Article 246A of the Constitution, the Centre came up with the CGST Act, 2017, whereas the States, including the then State of Jammu and Kashmir, also legislated the State GST Act, providing for simultaneous levy of the tax under both the legislations Central and the State. Chapter II of the CGST Act, 2017, as also Chapter II of the State GST Act, deals with administration under the GST and contains the definitions of the officers of the GST, their appointment, and their powers.

12 Sections 3 to 5 of the CGST Act deal with what is called "linear jurisdiction**".** The jurisdiction of CGST officers is in respect of taxpayers assigned to the 'Central jurisdiction', and similar provisions are contained in the State enactments in respect of officers assigned to the 'State jurisdiction'. Section 6 of the CGST Act, 2017, and the *pari materia* provision in the SGST Act, 2017, govern the issue of cross-empowerment of officers.

13 We have taken note of the provisions of Article 246A of the Constitution of India, which form the basis for the enactment of laws relating to Goods and Services Tax by both the Parliament as well as the State Legislatures. The said Article is in the nature of an enabling provision and does not address the issue of cross-empowerment of officers and authorities appointed under these

Acts. However, Section 6 of the CGST Act, which is in pari materia with Section 6 of the SGST Act, speaks about the jurisdiction of officers appointed under the State GST Act to act as proper officers for the purposes of the CGST Act. This is what is referred to as "cross-empowerment."

14 Having taken note of the salient features of the edifice on which the GST regime rests, we shall now examine the questions of law which we have formulated hereinabove in seriatim:

Q.No.(i) Whether the issuance of a specific notification for cross-empowerment under Section 6 of CGST, 2017 and SGST Act, 2017 is mandatory, and in the absence thereof, whether a proper officer under CGST Act can exercise jurisdiction in respect of an assessee assigned to the State/UT authorities and vice versa ?.

15 Section 6 of CGSCT Act, 2017 which lies at the heart of the controversy raised in the present petition, reads as under :

> "**6. Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances.**
>
> (1)Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify.
>
> (2)Subject to the conditions specified in the notification issued under sub-section (1),
>
> (a)where any proper officer issues an order under this Act, he shall also issue an order under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as authorised by the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, under intimation to the jurisdictional officer of State tax or Union territory tax;
>
> (b)where a proper officer under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act has initiated any proceedings on a

subject matter, no proceedings shall be initiated by the proper officer under this Act on the same subject matter.

(3)Any proceedings for rectification, appeal and revision, wherever applicable, of any order passed by an officer appointed under this Act shall not lie before an officer appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act".

16 From a plain reading of Section 6 as it is, without making any attempt to read it between the lines or to give it a contextual interpretation, it clearly transpires that the underlying objective of enacting Section 6 is to streamline tax administration, promote judicial accountability, eliminate duplicity in proceedings, and create a conducive environment for business operations. To ensure convenience and provide a single interface for the purpose of tax administration, every taxpayer has been assigned a jurisdiction of either the Centre or the State.However, the GST Acts also contemplate cross-empowerment of the Centre and the States over the taxpayers assigned to each other. Recently, both the Central as well as the State administrations have been functioning under the belief that Section 6 authorises them to enforce GST laws on taxpayers assigned to the other jurisdiction.

17 The issue as to whether the mandate of cross-empowerment contemplated under Section 6 has been validly brought into force or not, has been the subject matter of debate before various High Courts, and the opinion on the issue is divided.

18 In **Tvl. Vardhar Infrastructure vs. DGGSTI (2024) 3 TMI 1216,** the Madras High Court has taken the view that for effectuating cross-empowerment, the issuance of a notification by the Government on the recommendations of the GST Council is a

sine qua non. On the other hand, the Kerala High Court in **Pinnacle Vehicles & Services Private Ltd vs. Joint Commisisoner (2025) 1 TMI 838** and the Karnataka High Court in **SLM Stationery vs. Union of India (2025) 4 TMI 232** have taken a contrary view, holding that cross-empowerment under Subsection (1) of Section 6 the CGSCT Act is inbuilt and does not require a separate notification by the Government of India. It has been further opined in those judgments that a notification by the Government of India, on the recommendations of the GST Council, would be required only to impose riders and conditions on cross-empowerment.

19 Before we advert to the case law on this issue and the two contrary views taken by the High Courts, we deem it appropriate to look at the provisions of Section 6 of the CGSCT Act and to give the words used therein their natural meaning. Subsection (1) of Section 6 of CGST Act, 2017 speaks of cross-empowerment and unequivocally prescribes that the officers appointed under the State GST Acts or UT GST Acts are authorized to act as proper officers for the purpose of CGST Act, 2017, and this cross-empowerment envisaged in Subsection (1) of Section 6 is without prejudice to other provisions of the Act and, therefore, does not interfere with the powers of officers conferred under the provisions of the CGST Act of 2017. The expression "without prejudice to the provisions of this Act" would mean that Subsection (1) does not override, limit, or conflict with the provisions of the main Act, and in case of any inconsistency, the provisions of the Act would prevail.

21 The phrase "without prejudice to the provisions of the Act" would mean that the provision being enacted will not override,

limit, or affect any other provisions of the Act. It is a sort of saving clause that ensures that the operation of rest of the Act remains intact. To put it simply, the Section functions in addition to, and not in derogation of, the rest of the provisions of the main Act.

22 There are several judgments of the Supreme Court available on the issue. However, for us, it is sufficient to say that the expression "without prejudice to the provisions of the Act" is generally used to maintain harmony between the Section/Subsection and the general provisions of the Parent Act. So far so good, however, the difficulty has arisen because of the different interpretations put by the High Courts on the expression "*subject to such conditions as the Government may, on the recommendations of Council, by notification, specify."* Giving the words used in Subsection (1) aforementioned their natural meaning, it is abundantly clear that if the Government intends to impose conditions on cross-empowerment, it can do so only by issuing a notification specifying such conditions on the recommendations of the GST Council. Nothing more and nothing less. Reading the words "subject to such conditions… by a notification specified" to mean that the cross-empowerment, which is inherent and inbuilt in Subsection (1), can be effectuated only through the issuance of a notification by the Central Government would be tantamount to doing violence to the plain language of the Subsection.

23 By virtue of the provisions of Subsection (1) of Section 6 of the CGST Act, the officers appointed under the State Goods and Services Tax Acts and the Union Territory Goods and Services Tax Acts are deemed to be proper officers for the purposes of the CGST

Act, 2017. The cross-empowerment is, therefore, inherent and automatic under the Subsection. The Government is only empowered to subject cross-empowerment of officers to such conditions as it shall, on the recommendations of the Council, specify by notification. Unless such a notification, specifying the conditions subject to which the cross-empowerment envisaged under Subsection (1) shall be effectualted, is issued by the Government on the recommendations of the GST Council, the officers appointed under the State GST and UT GST Acts shall be the proper officers for the purposes of the CGST Act.

24 When we read Subsection (2) conjointly with Subsection (1) of Section 6, we further find that where any proper officer issues an order under the CGST Act, he shall also issue an order under the State GST Act or the UT GST Act, as the case may be, under intimation to the jurisdictional officer of State Tax or UT Tax. This empowerment of officers under the CGST Act to pass orders under the State/UT GST Act can only be helmed or curtailed by the conditions to be specified by the Central Government on the recommendations of the GST Council by issuing a notification.

25 Subsection (b) of Section 6(2) of the CGST Act provides for obviating duplicity in proceedings and lays down that where a proper officer under the State GST or UT GST Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by a proper officer under this Act on the same subject matter.

26 With a view to ensuring a single interface under the GST regime and to avoid dual control over taxpayers, the GST Council, in its 9thmeeting, resolved that a clear division of taxpayers between the

Central and the State tax administrations be effected. The Council also recognized the necessity of empowering both the Central and State tax administrations to act on intelligence-based enforcement actions across the entire value chain, regardless of the administrative allocation. While the single interface was envisaged for the convenience of taxpayers and to avoid dual control over them, the cross-empowerment was intended to maintain a robust enforcement mechanism and prevent any scope of tax evasion.

27 Circular No. 01/2017 dated 20.09.2017 issued by the Government of India, pursuant to the aforesaid decision of the GST Council, laid down guidelines for the division of taxpayers between the Centre and the States to ensure a single interface under GST in the following manner:

> (i) Of the total number of taxpayers below Rs. 1.5 crore turnover, all administrative control over 90% of the taxpayers shall vest with the State tax administration and 10% with the Central tax administration;
> (ii) In respect of the total number of taxpayers above Rs. 1.5 crore turnover, all administrative control shall be divided equally in the ratio of 50% each for the Central and the State tax administration;
> (iii) The division of taxpayers in each State shall be done by computer at the State level based on stratified random sampling and could also take into account the geographical location and type of the taxpayers, as may be mutually agreed;

28 Subsequently, another circular was issued on 05.10.2018 clarifying that the Central and State tax administrations shall have the power to take intelligence-based enforcement action in respect of the entire value chain. Along with this, a further clarification was issued by the Central Board of Indirect Taxes and Customs (CBIC) bearing

No. CBEC-20/10/07/2019-GST dated 22.06.2020. The clarification reads thus:

> " The confusion seems to be arising from the fact that, the said sub-section provides for notification by the Government if such cross empowerment is to be subjected to conditions. It means that notification would be required only if any conditions are to be imposed. For example, Notification No. 39/2017-CT dated 13.10.2017 restricts powers of the State Tax officers for the purposes of refund and they have been specified as the proper officers only under section 54 and 55 of the CGST Act and not under rule 96 of the CGST Rules, 2017 (IGST Refund on exports). If no notification is issued to impose any condition, it means that the officers of State and Centre have been appointed as proper officer for all the purpose of the CGST Act and SGST Acts".

29 From a careful reading of the above circulars and clarification, it is evident that while Section 6 ensures a single interface and avoids dual control by allocating taxpayers between the Central and State tax administrations, the power to take intelligence-based enforcement action is conferred upon both the Central and State tax authorities. Similarly, the issue as to whether the issuance of a notification by the Government is a sine qua non for effectuating the cross-empowerment contemplated under Subsection (1) of Section 6 has also been clarified.

30 The clarification reproduced above leaves no manner of doubt that Subsection (1) of Section 6 provides for issuance of a notification only if the Government intends to specify conditions subject to which cross-empowerment is to be effectuated. A notification would therefore be required only when conditions are to be imposed and In the absence of such conditions specified by a notification issued by the Government on the recommendations of the

GST Council, the cross-empowerment envisaged under subsection (1) would be absolute and complete. The Government of India has issued one such notification i.e Notification No. 30/2017 dated 13.10.2017 restricting the powers of State Tax Officers with respect to sanction of refunds. It is thus evident that if no notification is issued to impose any conditions, the officers of both the Central and State Tax administrations shall be the proper officers for all purposes of the CGST Act and the SGST/UTGST Acts. Subsection (2) of Section 6 ensures a single interface by dividing taxpayers between the Centre and the States, providing further that in case of intelligence-based enforcement actions, officers of both the Central and State/UT GST administrations shall have simultaneous and concurrent powers.

31 The plain language of Section 6 along with the CBIC circular dated 22.06.2020 which has been noticed and approved by the Supreme Court in **M/S Armour Security India Limited vs Commissioner CGST Delhi East Commissionerate and another, 2025 INSC 982,** removes ambiguity, if any, entertained by some of the High Courts, with regard to the true import and interpretation of the cross-empowerment provision contained in Subsection (1) of Section 6 of the CGST Act.

32 Without entering into a detailed analysis of the different opinions rendered by certain High Courts, we are of the considered view that the cross-empowerment envisaged under sub-section (1) of Section 6 is automatic and a result of legislative mandate. No separate notification by the Government on the recommendations of the GST Council is required to effectuate cross-empowerment. The power to issue a notification arises only if the Government seeks to impose

conditions on such empowerment. In the absence of any such notification, officers appointed under the State and UT GST legislations automatically act as proper officers for the purposes of the CGST Act. However, with a view to ensure a single interface and to avoid dual control over taxpayers, the Central Government vide Circular No. 01/2017 dated 27.09.2017, has laid down the guidelines for allocation of taxpayers between the Centre and the States, providing further that in case of intelligence-based enforcement action in respect of the entire value chain, both the Central and State tax administrators shall have concurrent powers. This answers the first question.

Q.No.(ii) Whether bunching of show cause notice under Section 74 of the CGST Act is permissible under law?

33 From a plain reading of Section 74 of the CGST Act, 2017, it does not prima facie come out that there is any prohibition against the issuance of a show cause notice for evasions that have taken place in more than one financial year. There were rival contentions from both sides on this issue, but we leave the question open to be determined in appropriate proceedings. In the instant case, the petitioners, while replying to the show cause notice and contesting the proceedings initiated by way of the impugned notice, would be well within their rights to raise this issue before the concerned authority.

Q.No.3(iii) Whether the Joint Commissioner is an authority competent to issue a show cause notice to the assessee where the amount involved is less than Rs.1.00 crore under the CGST Act?

34 The answer to this question is not far to seek. Under Section 5(2) of the CGST Act, the central tax officer is empowered to exercise the powers of a subordinate officer, meaning thereby that the

Joint Commissioner had the right to issue the notice, being the authority higher than the one empowered to initiate action.

35 Aside, the circular dated 09.02.2018 authorizes the Joint Commissioner to issue show cause notice where the amount involved exceeds Rs. 1 crore. However, this does not mean that the Joint Commissioner of Central Tax is not competent to issue a show cause notice where the monetary limit or the amount involved is less than Rs. 1 crore. The circular makes it abundantly clear that all officers up to the rank of Commissioner and Joint Commissioner of Central Tax are assigned as proper officers for issuance of show cause notices and orders under Subsections (1), (2), (3), (5), (6), (7), (9), and (10) of Section 73 and Section 74 of the CGST Act, and that in light of the provisions of Section 5(2) of the CGST Act, an officer of central tax has been empowered to exercise the powers and discharge the duties conferred or imposed under the CGSCT Act on any other officer of central tax who is subordinate to him.

36 We are, therefore, not persuaded to accept the argument advanced by Mr. Jatin Mahajan learned counsel for the petitioners that, since the amount involved in the impugned show cause notice is less than one crore, the Joint Commissioner of Central Tax lacks jurisdiction. The fixation of monetary limits is only an administrative measure for optimal distribution of work relating to show cause notices and orders under Sections 73 and 74 of the CGST Act. Apart from the aforesaid three questions, the petitioner also raised the issue of imposition of penalty under Section 122 of the CGST Act. We leave this issue open for the petitioner to agitate before the competent

authority, as we are not inclined to interfere with the show cause notice at this stage.

37 A feeble attempt was made by Mr. Jatin Mahajan learned counsel for the petitioner to argue that the action envisaged by the show cause notice is not an intelligence-based enforcement action. Suffice it to say, the show cause notice was issued pursuant to intelligence inputs received by the authorities with regard to the availing of bogus claim of input tax credit by twelve units, ten of which are before us in these petitions. Two of these units are functional, while the others are non-functional. These units availed bogus input credits by entering into paper transactions only. Searches were conducted in all twelve units and the intelligence inputs were found substantiated. This formed the basis for issuance of the show cause notice.

38 To argue that the show cause notice issued to the petitioner is not an intelligence-based enforcement action would defy logic. At this juncture, we would like to set out what was observed by the Supreme Court in paragraphs 47 to 51 of **M/S Armour Security Indian Pvt. Ltd.** (supra). It would be equally important to reproduce the final conclusions summarized by the Hon'ble Supreme Court in paragraph (96) of the said judgment. These read as under:

> "47. The concept of "cross-empowerment" has been retained within the GST framework in order to maintain a robust enforcement mechanism and prevent any scope of evasion of taxes. For this purpose, both the Central and State tax administrations have been armed with the power to initiate intelligence-based enforcement action i.e., an action that is predicated on information of tax evasion emanating from the value chain or chain of transactions rather than from any administrative scrutiny by way of audit of accounts or returns;
>
> 48. Such gathering of intelligence is intended to be a non-intrusive exercise. The Department relies on data analytics,

validation with third-party data, and other methods to collect actionable intelligence via analytical tools, human intelligence, modus operandi alerts as well as information through past detections. Taxpayers must be mindful that intelligence about evasion of tax cannot be procured from them through issuance summons or other non-descript letters and correspondence.

49. Any action arising from the audit of accounts or detailed scrutiny of returns falls within the first category, and proceedings in such cases are to be initiated by the tax administration to which the taxpayer is assigned. In contrast, when proceedings are based on intelligence relating to tax evasion, they can be initiated by either the Central or the State tax administration;

50. To put simply, Section 6 of the CGST Act provides for the cross empowerment of powers between the Central and State tax administrations. However, for the purpose of administrative convenience, the GST Council has sought to divide the taxpayer base between the two administrations through a circular. Nonetheless, with respect to intelligence-based enforcement actions, both the Central and the State tax authorities are empowered to act across the entire value chain.

51. We clarify with a view to obviate any confusion that, when we say intelligence-based enforcement action is any action that does not arise from audit of accounts or detailed scrutiny of returns, we do not for a moment say, that there is no scope for tax administration to undertake scrutiny of returns or audit of accounts. Both the Central and the State tax administration are well empowered to undertake such actions, as long as these actions are initiated on the basis of any intelligence relating to tax evasion.

96. We summarize our final conclusion as under:

i. Clause (b) of sub-section (2) of Section 6 of the CGST Act and the equivalent State enactments bars the “initiation of any proceedings” on the “same subject matter”.

ii. Any action arising from the audit of accounts or detailed scrutiny of returns must be initiated by the tax administration to which the taxpayer is assigned;

iii. Intelligence based enforcement action can be initiated by any one of the Central or the State tax administrations despite the taxpayer having been assigned to the other administration.

iv. Parallel proceedings should not be initiated by other tax administration when one of the tax administrations has already initiated intelligence-based enforcement action. v. All actions that are initiated as a measure for probing an inquiry or gathering of evidence or information do not constitute "proceedings" within the meaning of Section 6(2)(b) of the CGST Act.

vi. The expression "initiation of any proceedings" occurring in Section 6(2)(b) refers to the formal commencement of adjudicatory proceedings by way of issuance of a show cause notice, and does not encompass the issuance of summons, or the conduct of any search, or seizure etc.

vii. The expression "subject matter" refers to any tax liability, deficiency, or obligation arising from any particular contravention which the Department seeks to assess or recover.

viii. Where any two proceedings initiated by the Department seek to assess or recover an identical or a partial overlap in the tax liability, deficiency or obligation arising from any particular contravention, the bar of Section 6(2)(b) would be immediately attracted.

ix. Where the proceedings concern distinct infractions, the same would not constitute a "same subject matter" even if the tax liability, deficiency, or obligation is same or similar, and the bar under Section 6(2)(b) would not be attracted.

x. The twofold test for determining whether a subject matter is "same" entails, first, determining if an authority has already proceeded on an identical liability of tax or alleged offence by the assessee on the same facts, and secondly, if the demand or relief sought is identical.

39 The conclusions of the Supreme Court reproduced hereinabove provide complete answer to the submissions of Mr. Jatin Mahajan learned counsel appearing for the petitioner.

40 It is, thus, trite that an intelligence-based enforcement action is edificed on information of tax evasion emanating from the value chain or chain of transactions rather than from any administrative scrutiny by way of audit of accounts or returns. As is apparent from

reading of paragraphs 47 to 51 of the judgment supra, the gathering of intelligence is intended to be a non-intrusive exercise. The Department relies on data analytics, validation with third-party data, and other methods to collect actionable intelligence via analytical tools, human intelligence, modus operandi alerts as well as information through past detections.

41 On the contrary, the proceedings arising from audit of accounts or detailed scrutiny of returns are to be initiated by the tax administration to which the taxpayer is assigned. However, the proceedings which are based on intelligence relating to tax evasion, can be initiated either by the Central or the State tax administration.

42 For all these reasons, we find no merit in these petitions and the same are, accordingly, dismissed. We would, however, like to clarify that other than our conclusions on the interpretation of Section 6 of CGST Act, 2017 given hereinabove, the other views are only a reflection of prima facie opinion and, therefore, shall not prejudice the petitioners from raising the same issues before the authority issuing the show cause notices.

(SANJAY PARIHAR)
JUDGE

(SANJEEV KUMAR)
JUDGE

Jammu
30.09.2025
Sanjeev

Whether the order is speaking: ***Yes***
Whether the order is reportable: ***Yes***