



All India Federation of Tax Practitioners

(An Association of Advocates, Chartered Accountants & Tax Practitioners of India)

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Monday, March 20, 2023

The Hon'ble Chairman, GST Council

Office of the Goods & Service Tax Council

Tower-II, 5th Floor,

Jeevan Bharti Building,

New Delhi - 110001

Sub: Seeking suitable Clarification on parallel proceedings initiated on same subject matter by Central GST Authorities and State GST Authorities.

Respected Madam,

1. Brief Background

1.1 The Goods & Service Tax Act was implemented in India with the vision to broad base taxation, introduce seamless credit and to develop "ease of doing business" and "one nation one tax". The Law was enacted with a clear demarcation of powers between Centre and State in order to ensure ease of doing business.

1.2 Accordingly, GST is introduced in the nature of dual tax wherein both Centre as well as State can levy and collect tax and also have the power to initiate and conduct verification/investigation proceedings against the defaulting taxpayers. The tax base is bifurcated between them and the taxpayers were allocated with their jurisdiction offices, which could be either of the two departments.

1.3 Though the taxpayers are bifurcated clearly, there are instances of parallel proceedings being initiated by the different departments of GST i.e. parallel proceedings by Central Tax Authorities as well as State Tax Authorities and consequently the Writ Courts are left as the ultimate authority to decide the jurisdiction and validity of such proceedings which creates the multiplicity of litigation before the writ courts. Further, initiation of parallel proceedings by Center and State Authorities on same subject matter will results in mental harassment of



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bonafide taxpayers which ultimately denting the vision of "one nation one tax".

2. Legal provisions

2.1 Section 6(1) of the CGST Act provides that the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act to be the proper officers under the CGST Act also. However, Section 6(2)(b) of CGST/SGST Act further provides that where the proper officer under the CGST/SGST Act has already initiated the proceedings on a subject matter, no proceedings shall be initiated by the proper officer under SGST/CGST Acts on same subject matter. Relevant extract of Section 6(2)(b) of CGST Act is as under –

(6)(2) Subject to the conditions specified in the notification issued under sub-section (1)-

(a)

(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.

2.2 That CBEC vide Clarification D.O.F. No. CBEC/20/43/01/2017-GST (FT.) dated 05.10.2018 with the subject "Clarifications on ambiguity regarding initiation of enforcement action by Central Tax Officers in case of taxpayers assigned to State Tax Authority and vice versa" also clarified that "if an officer of the Central tax authority initiates intelligence based enforcement action against a taxpayer administratively assigned to State tax authority, the officers of Central tax authority would not transfer the said case to its State tax counterpart and would themselves take the case to its logical conclusions. Similar position would remain in case of intelligence-based enforcement action initiated by officers of State tax authorities against a taxpayer administratively assigned to the Central tax authority."



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2.3 That it is noteworthy to state before Hon'ble Chairman that even after having these express provisions of Section 6(2)(b) and clarification issued by CBEC, parallel proceedings are being initiated by Central GST Authority and State GST Authority on the same matter and on the very same taxpayer. These actions of different Authorities of same GST Department is in utter disregard of provisions of GST Act as well as instructions of CBEC which needs to be critically examined by this Hon'ble GST Council.

3. Prayer

3.1 In view of above, it is requested that the matter may be taken up with the relevant authorities and appropriate clarification / instruction / directions may be issued to the field formations.

3.2 Central & State GST Authorities may kindly be directed that while initiating proceedings due care and verification of ongoing proceedings against the taxpayers must be taken into consideration by the GST authorities as parallel proceedings on same matter leads to irreparable harm and injury to bonafide taxpayers.

If required and found suitable, we will be happy to explain our representation over an oral hearing/meeting, as per the convenience of the Hon'ble GST Council or the Ld. CBIC.

Thanking You,

Yours faithfully,

For All India Federation of Tax Practitioners

Pankaj Ghiya
National President