



CVO CA UPDATES

CASE LAW UPDATE

Compiled by CA Chintan Rambhia

***Kuppan Gounder P.G. Natarajan V/s Directorate General of GST
Intelligence, New Delhi – 2021 (8) TMI
Madras High Court***

❖ **Summary –**

- Mere pendency of proceedings before the State authorities is not a ground to restrain the Central authorities from issuing summons and conduct investigation regarding certain allegations
- Taxpayer should establish similarities in cases sought to be adjudicated by both the authorities by producing all original documents, evidences, etc to set aside anyone of the proceedings.

❖ **Facts –**

- The State authorities issued a notice for intimating discrepancies in the GST return after scrutiny in proceedings dated 17.12.2020. Regarding such discrepancies, the proceedings are initiated by State authorities and is pending for adjudication before the said authorities.
- Summons were issued and consequently order of seizure was issued by Central Authorities for similar matter according to the taxpayer.

Question decided by Hon'ble High Court:

- 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, can any proceedings be initiated by the proper officer under Central Goods and Services Tax Act on the same subject matter?

❖ **Taxpayers Argument –**

- Notice for intimating discrepancies in the return after some scrutiny, was issued by the State authorities to the petitioner on 17.12.2020 and the proceedings are in progress before the said state authorities.
- While so, Central authorities are bound to wait till the conclusion of the proceedings initiated by the State officials under the State Goods and Services Tax Act and thus, the summons issued by the respondent is without jurisdiction.



CVO CA UPDATES

CASE LAW UPDATE

❖ Department`s Argument –

- The learned Senior Panel counsel appearing on behalf of the department disputed the contentions raised by the petitioner by stating that taxpayer has already filed four writ petitions and stalling entire investigation process by one way or other. Further, he is not cooperating for the continuance and completion of the investigation process.
- It is contended that the State action regarding the scrutiny proceedings of the return filed by the petitioner and the impugned summons are issued by the Central authorities under Section 70 of the Act regarding IGST.
- Therefore, these two are unconnected and as per the provisions, if the subject matter is one and the same, then alone, the proceedings needs to be kept in abeyance and not otherwise.

❖ Judgement –

- The Court opined that the taxpayer has approached Hon`ble High Court on every stage, which would reveal that taxpayer is attempting to prolong the proceedings, instead of defending the case by producing relevant documents and evidences and establish its case or otherwise. Thus, such a conduct of filing writ petition after writ petition, challenging the summons and proceedings intermittently cannot be appreciated.
- The very purpose and object of Section 6(2) (b) of the Act is to ensure that on the same subject, the parallel proceedings are to be avoided. Once on a particular subject, the State authority has initiated action under the State Goods and Services Tax Act, then alone, the proper answer under the Central Goods and Services Tax Act are restrained to wait till the finalization of the proceedings initiated by the State authorities. However, in all circumstances, and in respect of various other proceedings, the benefit cannot be claimed by the assesseees.
- Therefore, all these factors require adjudication before the competent authority and if the summons are kept in abeyance at this stage, the same would paralyze the entire proceedings, which is not only desirable, but would cause prejudice to the interest of the Revenue in the present case.
- Thus, the Hon`ble High Court refused to intervene in this case



CVO CA UPDATES

CASE LAW UPDATE

❖ Author`s View –

- Practically, if a taxpayer is of the opinion that similar proceedings are carried out by both i.e Centre as well as the authorities, then provide each of them with adequate documentation regarding the same. In most cases, the department which has initiated the proceedings first shall continue with the proceeding and the other department shall keep its proceedings in abeyance till the conclusion of proceedings.

Disclaimer: The views / opinions expressed in the update are purely of the compiler. The readers are requested to take proper professional guidance before abiding the views expressed in the update. Association disclaims any liability in connection with the use of the information mentioned in the update.

Follow us on :

