

Delhi HC dismisses conducting of alleged parallel investigation by various jurisdictional authorities

The Hon'ble Delhi High Court in M/S. Indo International Tobacco Ltd. & Ors. v. Shri Vivek Prasad, Additional Director General, DGGI & Ors. [***Cont.Cas(C) 751/2021 & Cm No.35806/2021 dated January 11, 2022***] dismissed the applicability of Circular in a petition challenging the conduct of alleged parallel investigation by various jurisdictional authorities and affirmed the investigations conducted various jurisdictional authorities of the Revenue Department into entities having common nexus. Held that, Circular cannot be extended to cover all and myriad situations that may arise in the administration and the functioning of the GST structure.

Facts:

M/S. Indo International Tobacco Ltd. and M/S. SSM Exports ("**the Petitioners**") are engaged in the manufacturing and supply of tobacco products. These writ petitions have been filed, being aggrieved of multiple search operations, summons being issued and cancellation of GST registration by the Revenue Department ("**the Respondent**") for alleged avilment and utilization of inadmissible Input Tax Credit ("**ITC**") and to challenge the conduct of alleged parallel investigation by officers of CGST, Directorate General of Goods and Services Tax Intelligence ("**DGGI**") Ahmedabad and Delhi Unit, Joint Commissioner (AE), CGST etc. ("**various jurisdictional authorities**").

The Petitioner contended that issuance of such multiple summons by multiple agencies is violative of the mandate of Section 6(2)(b) of the Central Goods and Services Tax Act, 2017 ("**the CGST Act**") and as also the *Circular No. D.O.F.No. CBEC/20/43/01/2017-GST (Pt.) dated October 5, 2018* ("**the Circular**") clarifying initiation of intelligence based enforcement action.

Issue:

Whether parallel investigation by various jurisdictional authorities can be conducted at same time against the Petitioners?

Held:

The Hon'ble Delhi High Court in ***Cont.Cas(C) 751/2021 & Cm No.35806/2021 dated January 11, 2022*** held as under:

- Noted that, the CBIC vide **Notification No. 14/2017 – Central Tax dated July 01, 2017** has appointed the Officers in the DGGI, Director General of Goods and Service Tax (“**DGGST**”), and Director General of Audit (“**DG Audit**”) as the Central Tax Officers and conferred on them the powers extended throughout the territory of India, and who are empowered to exercise all-India jurisdiction and those who enjoy the limited territorial jurisdiction.
- Observed that, to achieve the goal of harmonized goods and services tax structure and in the spirit of co-operative federalism, Section 6(1) of the CGST Act and pari materia provisions in the State Goods and Services Tax Act, 2017 (“**the SGST Act**”) provide for cross-empowerment of the Central Tax Officers and the State Tax Officers.
- Further noted that, Section 6 of the CGST Act is clearly guided by the object of providing a common national market of goods and services and to eliminate the subjection of the taxpayers to multiple jurisdictions. It aims to provide protection to the taxpayers against being subjected to multiple agencies for the same set of transactions, at the same time empowering the Officers under the CGST Act or the SGST Act or the Union Territory Goods and Services Tax Act, 2017 (“**the UTGST Act**”) to pass a comprehensive order and take action, keeping in view and extending to the other Acts. There should, therefore, be only one order insofar as the tax entity is concerned.
- Observed that, the investigations were initiated by various jurisdictional authorities against the Petitioners that were allegedly found in the investigations and the same have been transferred to officials of the Respondent to be brought under one umbrella.
- Stated that, in the course of investigating of a tax entity, a situation may arise where the investigation may have to be carried out from entities which are not within the territorial jurisdiction of the Officer appointed or with the limited territorial jurisdiction. It cannot be said that in every such case, the ‘proper officer’ having limited territorial jurisdiction must transfer the investigation to the ‘proper officer’ having pan India jurisdiction. It would

depend on the facts of each case as to whether such transfer is warranted or not. To lay down the indefeatable rule in this regard may not be feasible or advisable, and certainly not acceptable.

- Opined that, neither Section 6 of the CGST Act nor the Circular is intended to nor can be given an overarching effect to cover all the situations that may arise in the implementation of the CGST Act and the SGST Act.
- Held that, the Circular cannot be extended to cover all and myriad situations that may arise in the administration and the functioning of the GST structure, and clearly has a limited application, which is of ensuring that there is no overlapping exercise of jurisdiction by the Central and the State Tax Officers, to bring harmony between the Centre and the State in the implementation of the GST regime, with the two not hustle for jurisdiction over a taxpayer. It is, however, not intended to answer a situation where due to complexity or vastness of the inquiry or proceedings or involvement.
- Further held that, there is no prohibition to such transfer under the CGST Act and allowed multiple investigations initiated against the Petitioners at the same time by various jurisdictional authorities to be transferred to DGGI, Ahmedabad, in order to bring them all under one umbrella.

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