

Parallel proceedings cannot be initiated by Central/ State Tax Authorities on the same subject matter

The Hon'ble Madras High Court in the case of *M/s. VGN Projects Estates Private Limited v. Assistant Commissioner (State Taxes) and others [W.P.No.2391 of 2023 and W.M.P.No.2481 of 2023, dated January 30, 2023]* has directed the assessee to file a reply to the Show Cause Notice ("SCN") issued by the State Tax Authority, wherein, parallel proceedings had been initiated by the State Tax Authorities on a similar matter which is already pending before the Central Tax Authority. Held that, if the defects are similar in the SCNs then it shall be omitted and no proceedings to be initiated against the assessee w.r.t. the defects, which are already the subject matter of consideration by the Central Tax Authority.

Facts:

M/s. VGN Projects Estates Private Limited ("**the Petitioner**") has challenged the SCN dated October 21, 2022 ("**the Impugned SCN**") issued by the State Tax Authority on the ground that the same has been issued in violation of Section 6(2)(b) of the Tamil Nadu Goods and Services Act, 2017 ("**the TNGST Act**").

The Petitioner contended that, a similar SCN was issued by the Central Tax Authority under the Central Goods and Services Tax Act, 2017 ("**the CGST Act**") on July 29, 2022 to the Petitioner, involving the very same defects and therefore, as per the provisions of Section 6(2)(b) of the TNGST Act when the proper officer under the CGST Act has already initiated the proceedings against the Petitioner, no proceedings shall be initiated by the proper officer under the provisions of the TNGST Act on the very same subject matter.

Being aggrieved this writ petition has been filed.

However, the Revenue Department ("**the Respondent**") contended that, if the Petitioner submits the reply to the Impugned SCN, then accordingly those similar defects for which the

SCN has been issued by the Central Tax Authority will be omitted and action shall be initiated in respect of the balance defects alone.

Issue:

Whether fresh proceedings can be initiated against the Petitioner under the TNGST Act with regard to the very same subject matter on which the SCN has been issued by the Central Tax Authority?

Held:

The Hon'ble Madras High Court in ***W.P.No.2391 of 2023 and W.M.P.No.2481 of 2023*** held as under:

- Stated that, the only limited relief that can be granted to the Petitioner is to permit them to file a detailed reply to the impugned SCN to the Respondents, to enable the Respondent to consider the Petitioner's grievance stating all their objections raised including the objection with regard to Section 6(2)(b) of the TNGST Act.
- Directed the Petitioner to submit a reply to the Impugned SCN within a period of 3 weeks.
- Stated that on receipt of such reply, the Respondent shall pass final orders on merits and in accordance with law.

Relevant Provisions:

Section 6(2)(b) of the CGST Act:

“where a proper officer under the Central 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.”

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