No Jurisdictional Infirmity under Section 6(2)(b) of the CGST Act where CGST Proceedings Precede SGST Action

The Hon'ble Delhi High Court in ***Shub Conductors LLP and Ors. v. Joint Commissioner Central Tax GST Delhi East and Ors. [W.P.(C) 4126/2025 and CM APPL. 19123/2025 dated August 05, 2026]*** disposed of the writ petition challenging the adjudication order passed under Section 74 of the Central Goods and Services Tax Act, 2017 (**"the CGST Act"**) and held that no jurisdictional infirmity under Section 6(2)(b) of the CGST Act arises where the proceedings under the CGST Act were initiated prior in point of time to the proceedings initiated by the State GST Authorities. Accordingly, the Court relegated the Assessee to the statutory remedy of appeal under Section 107 of the CGST Act, while directing that the period spent in prosecuting the writ petition shall stand excluded while computing the period of limitation for filing the statutory appeal.

Facts:

M/s. Shub Conductors LLP and Ors. (**"the Petitioners"**) were subjected to a search at their premises on February 03, 2020, wherein certain goods were seized on the ground that they were found without any invoices. The said matter was adjudicated by issuance of a notice dated September 06, 2022 under Section 67(7) of the CGST Act, and the proceedings were subsequently dropped.

Thereafter, pursuant to investigation, the Competent Authority under the CGST Act issued a Show Cause Notice dated March 22, 2023 (**"the SCN"**) under Section 74 of the CGST Act for the period spanning five financial years i.e., F.Y. 2017-18 to F.Y. 2021-22, alleging that the Petitioners had wrongfully availed Input Tax Credit (**"ITC"**) and evaded payment of tax. The Petitioners filed their reply on February 16, 2024, whereafter the Adjudicating Authority, upon consideration of the matter, passed the Order-in-Original dated January 11, 2025 (**"the Impugned Order"**).

In the interregnum, the State GST (**"SGST"**) Authorities issued three notices dated September 25, 2023 (in respect of F.Y. 2017-18), December 05, 2023 (in respect of F.Y. 2018-19) and March 29, 2024 (in respect of F.Y. 2019-20), which culminated in orders dated December 29, 2023, January 23, 2024 and October 08, 2024 respectively.

Aggrieved by the Impugned Order, the Petitioners filed a writ petition before the Hon'ble Delhi High Court, essentially contending that two simultaneous orders under Sections 74 and 73 of the CGST Act had been passed in respect of the same period, that the proceedings initiated by the CGST Authorities were barred by Section 6(2)(b) of the CGST Act, and that since the controversy raised a pure question of law, the writ petition ought to be entertained notwithstanding the availability of the statutory remedy. Reliance was placed on ***Godrej Sara Lee Ltd. v. Excise and Taxation Officer [2023 SCC OnLine SC 95] and Armour Security (India) Ltd. v. Commissioner, CGST, Delhi East Commissionerate and Anr. [2025 SCC OnLine SC 1700]***.

Per contra, the Revenue contended that the proceedings under the CGST Act were initiated prior in point of time, the SCN having been issued on March 22, 2023, whereas the first notice by the SGST Authorities was issued only on September 25, 2023. Moreover, the Petitioners never filed any application for stay of the proceedings before the SGST Authorities as contemplated under Section 6(2)(b) of the CGST Act.

Issue:

Whether the proceedings initiated by the CGST Authorities were barred by Section 6(2)(b) of the CGST Act, where the SCN under Section 74 of the CGST Act preceded the notices issued by the SGST Authorities, so as to warrant the exercise of writ jurisdiction in preference to the effective statutory remedy of appeal under Section 107 of the CGST Act?

Held:

The Hon'ble Delhi High Court in ***W.P.(C) 4126/2025*** held as under:

- **Observed that**, Section 6(2)(b) of the CGST Act provides that where a proper officer under the State Goods and Services Tax Act has initiated proceedings on a subject matter, no proceedings shall be initiated by the proper officer under the CGST Act on the same subject matter.

- **Noted that**, the SCN under Section 74 of the CGST Act was issued on March 22, 2023, whereas the notices relied upon by the Petitioners as having been issued by the SGST Authorities came subsequently. Thus, on the chronology placed before the Court, the contention based on Section 6(2)(b) of the CGST Act does not disclose such a jurisdictional infirmity as would warrant bypassing the statutory remedy of appeal.

- **Noted that**, the order dated September 06, 2022 pertained to the proceedings relating to the goods seized during the search, whereas the Impugned Order dated January 11, 2025 came to be passed after investigation, issuance of the SCN under Section 74 of the CGST Act and consideration of the Petitioners' reply. The two proceedings, therefore, cannot, merely on that basis, be treated as parallel adjudication of the same subject matter.

- **Observed that**, there can be no quarrel with the proposition laid down in *Godrej Sara Lee (supra)* – the availability of an alternative remedy does not render a writ petition not maintainable; however, its entertainability remains a matter of judicial discretion.

- **Held that**, on examination of the jurisdictional objection raised under Section 6(2)(b) of the CGST Act, no such infirmity was found in the impugned proceedings and, therefore, no circumstance was made out warranting the exercise of writ jurisdiction in preference to the effective statutory remedy of appeal available to the Petitioners.

- **Directed that**, the writ petition is disposed of and the Petitioners are relegated to the statutory remedy of appeal under Section 107 of the CGST Act, and the period spent by the Petitioners in prosecuting the writ petition shall stand excluded while computing the period of limitation for filing the statutory appeal.

Our Comments:

Section 6 of the CGST Act governs "Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances" and embodies the scheme of cross-empowerment under GST. Section 6(2)(b) of the CGST Act reads as under:

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

(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."

A plain reading of the provision makes it clear that the statutory bar operates only where the State authorities have *already* initiated proceedings on a subject matter and the Central authorities thereafter seek to initiate proceedings on the same subject matter (and vice-versa under the mirror provision in the SGST Acts). The bar is, therefore, essentially chronological in operation – the authority which is first in point of time to initiate proceedings retains jurisdiction, and the subsequent initiation by the counterpart administration on the same subject matter alone is proscribed. In the present case, since the Section 74 SCN issued by the CGST Authorities on March 22, 2023 preceded the first SGST notice dated September 25, 2023, the Hon'ble Delhi High Court rightly held that the CGST proceedings suffered from no jurisdictional infirmity. Notably, if at all, it is the subsequent SGST notices and orders which may be vulnerable to challenge on the anvil of Section 6(2)(b), subject to satisfaction of the "same subject matter" test.

The law on this issue now stands authoritatively settled by the Hon'ble Supreme Court in ***Armour Security (India) Ltd. v. Commissioner, CGST, Delhi East Commissionerate and Anr. [Special Leave Petition (C) No. 6092 of 2025 dated August 14, 2025]***, which was also relied upon by the Petitioners, and a detailed discussion whereof is warranted.

In Armour Security, the State GST authority had issued an SCN dated November 18, 2024 under Section 73 of the CGST Act for the tax period April 2020 to March 2021, raising a demand of INR 1,24,92,162/- on grounds including non-reconciliation of turnover with e-way bill data and excess availment of ITC. Subsequently, on January 16, 2025, the Central GST authorities conducted a search under Section 67(2) of the CGST Act at the assessee's premises, seized electronic gadgets and documents, and issued summons under Section 70 of the CGST Act to the directors of the company. The assessee challenged the summons contending that, since the State authority had already initiated proceedings on the same issue, the Central authority was denuded of jurisdiction by virtue of Section 6(2)(b) of the CGST Act. The Hon'ble Supreme Court, while dismissing the challenge, laid down the following seminal propositions:

- **Summons is not "initiation of proceedings":** The issuance of summons under Section 70 of the CGST Act does not constitute "initiation of proceedings" within the meaning of Section 6(2)(b). A summons is merely a step in an inquiry or investigation to gather information, documents or statements, and not the culmination thereof. The expressions "inquiry" under Section 70 and "proceedings" under Section 6(2)(b) cannot be conflated.

- **SCN marks the commencement of proceedings:** "Initiation of any proceedings" refers to the formal commencement of adjudicatory proceedings through the issuance of a show cause notice under Sections 73, 74 or analogous provisions. The SCN is a mandatory precondition for raising any demand, sets the law in motion qua the liability, and marks the commencement of quasi-judicial adjudication. Until an SCN is issued, the Department retains the discretion not to initiate proceedings at all. A search under Section 67(2), or an inquiry, does not by itself amount to initiation of proceedings.

- **Meaning of "same subject matter":** The expression "subject matter" is intrinsically tied to the specific tax liability or contravention articulated in the SCN, i.e., the alleged offence or non-compliance together with the demand or relief sought by the Revenue. The bar under Section 6(2)(b) is attracted only where both proceedings seek to assess or recover an identical or overlapping liability. The Court laid down a twofold test – (i) an authority has already proceeded against the assessee on an identical liability of tax or alleged offence on the same facts; and (ii) the demand or relief sought is identical. Distinct infractions, even if yielding a similar tax liability, do not constitute the "same subject matter".

- **Single interface and cross-empowerment:** The GST framework harmonises the concept of a "single interface" (a taxpayer is administratively assigned to one tax administration) with "cross-empowerment" (both Central and State administrations are empowered to undertake intelligence-based enforcement action across the entire value chain, irrespective of administrative assignment). Referring to the Circular dated October 05, 2018, the Court affirmed that the authority which initiates intelligence-based enforcement action is empowered to complete the entire process of investigation, issuance of SCN, adjudication and recovery, and once such action is initiated by one administration, the other must refrain from initiating parallel proceedings on the same subject matter.

- **Binding guidelines:** The Court further issued binding guidelines, inter alia, that an assessee must comply with summons since their mere issuance does not indicate initiation of proceedings; where the assessee is aware of an overlap in inquiry or investigation by the two administrations, it must forthwith inform the authority which initiated the subsequent action in writing; upon such intimation, the authorities shall communicate with each other to verify the claim; any SCN issued for a liability already covered by an existing SCN shall be quashed; the authorities shall decide inter-se which of them shall continue the inquiry or investigation (the taxpayer having no right to choose), and in the absence of consensus, the authority which first initiated the inquiry or investigation shall continue with it; and where the guidelines are not complied with, the taxpayer may invoke the writ jurisdiction under Article 226 of the Constitution of India.

The Court also urged the development of a robust mechanism for seamless, real-time data and intelligence sharing between the Central and State administrations.

The present ruling of the Hon'ble Delhi High Court is a faithful application of the Armour Security framework. Tested on the chronological anvil, the CGST proceedings (SCN dated March 22, 2023) were first in point of time, and hence, the bar under Section 6(2)(b) was simply not attracted qua them. Equally, applying the "subject matter" test, the Court rightly distinguished the earlier Section 67(7) proceedings arising out of the seizure of goods (which stood dropped) from the subsequent Section 74 adjudication founded upon investigation into wrongful availment of ITC, holding that the two could not be treated as parallel adjudication of the same subject matter.

In pari materia, the Hon'ble Supreme Court in Armour Security concurred with the view taken by the Hon'ble Allahabad High Court in ***G.K. Trading Company v. Union of India [Writ Tax No. 666 of 2020 dated December 02, 2020]*** and the Hon'ble Kerala High Court in ***K.T. Saidalavi v. State Tax Officer,*** wherein it was held that an "inquiry" under Section 70 is not synonymous with "proceedings" under Section 6(2)(b) of the CGST Act. Further, the Hon'ble Jharkhand High Court in ***Vivek Narsaria v. State of Jharkhand [W.P. (T) No. 4491 of 2023 dated January 15, 2024]*** held that Section 6(2)(b) is principally concerned with a chain of proceedings on the same subject matter, and where multiple wings had initiated action against the taxpayer, directed that the authority which had first initiated the proceedings shall alone continue therewith. On the maintainability front, the Hon'ble Supreme Court in ***Godrej Sara Lee Ltd. v. Excise and Taxation Officer [2023 SCC OnLine SC 95]*** clarified that the availability of an alternative remedy does not render a writ petition not maintainable, though its entertainability remains within the realm of judicial discretion – a distinction expressly noticed and applied by the Hon'ble Delhi High Court in the present case.

The takeaway for the trade and industry is clear – the point of initiation of proceedings for the purposes of Section 6(2)(b) of the CGST Act is the issuance of the SCN, and the authority which is first in point of time retains jurisdiction to carry the proceedings to their logical conclusion. Where a taxpayer is confronted with dual proceedings by the Central and State administrations, it must promptly intimate the authority which initiated the subsequent action in writing, place on record the overlap of the subject matter, and seek quashing or transfer of the later proceedings in terms of the Armour Security guidelines. Grievances against the later, overlapping proceedings must be raised against those proceedings, and not employed to bypass the statutory appellate remedy against an order passed by the authority which was first in time.

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