

Parallel Proceedings under GST Law

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India has adopted the dual GST model, considering its unique federal nature, tax is levied concurrently by the Centre as well as the States on a common base, i.e. supply of goods or services, or both. Considering India's GST framework result in duplication of proceedings, by Central and State Tax authorities, leading to parallel proceedings. Which would result in an unnecessary burden and cause adversity to the taxpayer. The issue of parallel actions by centre and state has momentous consequences on trade, judiciary has viewed parallel proceedings very strictly.

Parallel Proceedings under GST:

In terms of **section 6(2) of the CGST Act.**

(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.

Impact on Assessee: Legal and Practical Implications

Parallel proceedings in the context of GST or indirect taxation can significantly impact an assessee in various ways:

Mental Stress:

- Undergo investigations by both Central and State tax authorities can be mentally exhausting for the assessee.
- Burden of attending multiple proceedings with fear of adverse outcomes and its impact on subsequent periods can take a toll on an individual's mental well-being/ impact on the financials of the organization.

Financial Strain:

- Parallel proceedings often require the assessee to engage legal professionals/ consultants in handling the case or finance team of the company is held up proceedings.

- Legal fees, professional charges, and administrative costs accumulate, putting a strain on the organization's financial resources.

Time and Productivity Loss:

- Assessee are compelled to dedicate substantial time and effort to attend hearings, respond to notices, and gather relevant documents.
- This diversion of time affects their regular business operations, productivity, and overall efficiency.

Legal Uncertainty:

- Considering the dual authority could result in dual views, which would result in different outcomes. Which would cause chaos to the business.
- Businesses would face uncertainty regarding the final outcome, which can impact long-term planning, investment decisions, and business strategies.

The writer's is of the view that there should be a system in place within the portal that provides clear and accessible information regarding the period under investigation, the specific issues being examined, and the authority responsible for the investigation or audit, details of adjudication etc. The writer believes that by having systematic controls, several benefits can be achieved:

Efficiency in Duplication Detection: The portal would allow both the investigating/audit authority and the assessee (the entity being investigated or audited) to easily determine if the same issue for the same period is already being examined. This can prevent unnecessary duplication of efforts and resources.

Confusion Reduction: By having all relevant information in one accessible place, it reduces the confusion among all parties involved. The assessee can clearly see what is being investigated and by whom, and the investigating/audit authority can ensure that they are not overlapping with other ongoing investigations or audits.

Enhanced Transparency: Such a system would promote transparency in the investigation or audit process. All stakeholders can see the status of various issues and the progress of investigations, which can inbuilt trust and accountability.

Resolution at an Early Stage: By identifying potential duplications or overlaps early on, issues can be resolved more quickly, potentially saving time and resources for both the investigating/audit authority and the assessee.

Clarity for Businesses: Businesses would have a clear understanding of what is being audited or investigated, which can help them manage their compliance processes more effectively and plan their responses accordingly.

To implement this view, the portal would need to have the following features:

- **Real-time Updates:** The portal should be dynamic, with information being updated in real-time to reflect the current status of investigations and audits and adjudication.
- **Access Controls:** Appropriate access controls should be in place to ensure that sensitive information is only visible to authorized personnel.
- **Search and Filter Functionality:** Users should be able to search and filter information based on various criteria such as period, issue, and investigating authority.
- **Data Security Measures:** Robust security measures should be implemented to protect the integrity and confidentiality of the data on the portal.

Overall, the introduction of such systematic controls in a portal would streamline the investigation and audit processes, leading to more efficient and effective outcomes to all stakeholders.

Case Laws and Circular Addressing Parallel Proceedings

CIRCULAR:

The Board had issued a letter having **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”** which 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.

CASE LAWS:

1. **Subhash Agarwalla v. State of Assam 2024:** The Hon’ble Guwahati High Court held that **once a proceeding is initiated under either the CGST Act or the SGST Act, another proceeding for the same period under the other Act cannot be initiated.** Section 6(2)(b) of the CGST Act explicitly states that if a proper officer under the SGST Act or the Union Territory GST Act has already initiated proceedings on a subject matter, no parallel proceedings shall be initiated under the CGST Act on the same subject matter

2. **Raj Metal Industries & Anr. Vs Union of India & Ors. [TS-215-HC(CAL)-2021-GST]:** The Calcutta High Court held that “proceedings cannot be initiated under State Goods and Service Tax if proceedings are already pending under Central Goods and Service Tax Act.”

3. **RCI Industries and Technologies Ltd Vs Commissioner DGST Delhi & Ors.[TS-13-HC(DEL)-2021-GST]:** Delhi High Court explained “that if an officer of the Central GST initiates action against a taxpayer administratively assigned to State GST, they should take the case to its logical conclusion without transferring it to their counterparts in the State department”.

4. **Mohit Minerals Pvt. Ltd. v. Union of India :** The Gujarat High Court observed “that parallel proceedings by both the Central and State tax authorities would create an “undue burden” on taxpayers and lead to “chaos” in the administration of tax laws.”

5. **Singla Exports v. Central Board of Indirect Taxes and Customs & Ors:** The Honourable Delhi High Court passed a similar judgment, emphasizing that once proceedings are initiated by one authority (either CGST or SGST), no parallel proceedings should be initiated by the other authority for the same subject matter

6. **M/s. R.P. Buildcon private limited & anr. Versus the superintendent, CGST & cx, circle [TS-496-HC(CAL)-2022-GST]** Hon’ble High Court held that “since the audit proceedings under Section 65 of the Act has already commenced, it is but appropriate that the proceedings should be taken to the logical end. **The proceedings initiated by the Anti Evasion and Range Office for the very same period shall not be proceeded with any further.**”

These cases highlight the importance of avoiding redundant investigations and ensuring clarity for taxpayers. The courts consistently emphasize that parallel proceedings for the same period under both CGST and SGST Acts should not occur. Considering Article 20(2) of the Constitution of India, safeguarding against double jeopardy, meaning parties that have been subjected to proceedings before one authority cannot be subjected to a parallel proceeding before another authority on the same subject matter.

Conclusion: Considering the dynamics of our country, any parallel proceedings could have significant implications for taxpayers and the tax administration. The judiciary has played a crucial role in clarifying the legal position and providing guidance to prevent unnecessary hardship to taxpayers. It is essential for tax authorities to coordinate and avoid initiating parallel proceedings, thereby ensuring a more streamlined and fair tax system, introduction of systematic controls in portal would streamline the investigation and audit processes, leading to more efficient and effective outcomes to all stakeholders.