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No bar on investigation by different officers independently investigating different matters without any overlapping

The Hon'ble Punjab & Haryana High Court in *Kaushal Kumar Mishra vs. Addl Director General & anr [CWP-21387-2020 (O&M), decided on February 12, 2021]* dismissed the petition and refused to interfere with the investigations undertaken by the competent authorities against the proprietor, for alleged misuse and fake availment of Input Tax Credit (“ITC”).

Further, the Hon'ble HC held that where different officers appointed are independently investigating altogether different matters involving contraventions of prima facie cognizable and punitive offences under Central Goods and Services Tax Act, 2017 (“**CGST Act**”), without any overlapping, such investigation is not barred by Section 6(2)(b) of the CGST Act.

Facts:

Kaushal Kumar Mishra (“**the Petitioner**”) is proprietor of M/s R.K.M. Steels Industries (“**the Company**”) engaged in trading of iron and steel products.

An investigation against the Petitioner alleging misuse of Input Tax Credit (“ITC”) was initiated in October, 2020, the officials of Commissioner, CGST Kanpur (“**Respondent No. 2**”). The Additional Director General, Directorate General of GST Intelligence, (“**DGGI**”) Ludhiana, (“**Respondent No. 1**”) initiated another investigation alleging misuse of ITC by the Petitioner and its sister concern M/s ESA Steel Rolling Mills, wherein on December 4, 2020 the residential premises of the Petitioner and office of M/s ESA Steel Rolling Mills was searched. In the meanwhile, the officials of DGGI, Bhopal (“**Respondent No. 3**”) have also issued summons under Section 70 of CGST Act.

The Petitioner has filed this writ petition seeking quashing of summons and to restrain Respondent No. 1 from carrying out further investigation. It is contended by the Petitioner that, once the investigation has been initiated by Respondent No. 2, then Respondent No. 1 and Respondent No. 3 have got no power to start fresh investigation regarding the same allegations and are overlapping investigations, beyond jurisdiction and in violation of the provisions of Section 6 of CGST Act.

Issue:

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Whether the investigation initiated by different officers is overlapping, beyond jurisdiction and in violation of the provisions of Section 6 of CGST Act?

Held:

The Hon'ble Punjab & Haryana High Court in ***CWP-21387-2020 (O&M)***, decided on ***February 12, 2021*** held as under:

- Observed that, all the investigations pertain to different issues:
 - Respondent No. 1 has initiated the investigation upon the information received that the Company had passed on fraudulent ITC to its sister concern M/s ESA Rolling Mills, and in that regard, summons have been served to the Petitioner as well as his wife.
 - The investigation conducted by Respondent No. 2 is limited to information provided by DGGI, Lucknow, CGST Agra and DGGSTI Ghaziabad about fake availment of ITC by the Company from bogus firms.
 - The matter under investigation before Respondent No.3 is limited to purchases and availment of ITC by Company from M/s Diamond Enterprises and accordingly, the Petitioner has been summoned under Section 70 of CGST Act.
- Stated that, different officers appointed under Sections 3 and Section 6 of the CGST Act, are independently investigating altogether different matters, in accordance with law, without any overlapping.
- Noted that, the alleged contraventions against the Petitioner are prima facie cognizable and punitive in nature under CGST Act and held that, the investigations being conducted by competent officers against the Petitioner are not hit by provisions of Section 6(2)(b) of CGST Act.
- Denied interfering with the investigations undertaken by the competent authorities against the Petitioner and dismissed the writ petition and disposed of pending applications in this regard.

Relevant Provisions:

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

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“Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances-

(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.”

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