

## Law and Provisions under CGST

### Chapter 2 – ADMINISTRATION

**2.0 ADMINISTRATION** – The provisions related to Administration - Officers under this Act, Appointment of officers, Powers of officers and Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances are covered under Chapter II of the CGST Act 2017 from Section 3 to Section 6.

The Central Government has appointed the 22nd day of June, 2017, as the date on which the provisions of sections 3 to 5 of the said Act shall come into force vide [Notification No. 01/2017-Central Tax, dated. 19-06-2017](#).

The Central Government has appointed the 1st Day of July, 2017, as the date on which the provisions of section 6 of the CGST Act 2017, shall come into force vide [Notification No. 09/2017-Central Tax, dt. 28-06-2017](#).

<b>Chapter III of the CGST Act 2017 - Levy and Collection of Tax</b>	
<b>Section</b>	<b>Particulars</b>
Section 3	Officers under this Act
Section 4	Appointment of officers
Section 5	Powers of officers
Section 6	Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances

#### 2.1 Officers under this Act. [SECTION 3]

<b>Section 3</b>	22.06.2017 to till date	<p><b>Classes of officers for the purposes of CGST Act</b></p> <p>The Government shall, by notification, appoint the following classes of officers for the purposes of this Act, namely:—</p> <table border="1" style="width: 100%;"> <tr> <td style="text-align: center;">(a)</td> <td>Principal Chief Commissioners of Central Tax or Principal Directors General of Central Tax,</td> </tr> <tr> <td style="text-align: center;">(b)</td> <td>Chief Commissioners of Central Tax or Directors General of Central Tax,</td> </tr> <tr> <td style="text-align: center;">(c)</td> <td>Principal Commissioners of Central Tax or Principal Additional Directors General of Central Tax,</td> </tr> <tr> <td style="text-align: center;">(d)</td> <td>Commissioners of Central Tax or Additional Directors General of Central Tax,</td> </tr> </table>	(a)	Principal Chief Commissioners of Central Tax or Principal Directors General of Central Tax,	(b)	Chief Commissioners of Central Tax or Directors General of Central Tax,	(c)	Principal Commissioners of Central Tax or Principal Additional Directors General of Central Tax,	(d)	Commissioners of Central Tax or Additional Directors General of Central Tax,
(a)	Principal Chief Commissioners of Central Tax or Principal Directors General of Central Tax,									
(b)	Chief Commissioners of Central Tax or Directors General of Central Tax,									
(c)	Principal Commissioners of Central Tax or Principal Additional Directors General of Central Tax,									
(d)	Commissioners of Central Tax or Additional Directors General of Central Tax,									

		(e) Additional Commissioners of Central Tax or Additional Directors of Central Tax,
		(f) Joint Commissioners of Central Tax or Joint Directors of Central Tax,
		(g) Deputy Commissioners of Central Tax or Deputy Directors of Central Tax,
		(h) Assistant Commissioners of Central Tax or Assistant Directors of Central Tax, and
		(i) any other class of officers as it may deem fit:
<b>First Proviso</b>	22.06.2017 to till date	<p><b>Officers appointed under the Central Excise Act, 1944 to be deemed to be the officers appointed under the provisions of CGST Act</b></p> <p>Provided that the officers appointed under the Central Excise Act, 1944 shall be deemed to be the officers appointed under the provisions of this Act.</p>

#### 2.1.1.1 Departmental Notifications - Jurisdiction of Central Tax Officers

[Notification No. 2/2017-CT, dated 19th June, 2017](#) as amended vide [Notification No. 79/2018 – Central Tax dated 31st December, 2018](#), [Notification No. 04/2019 – Central Tax dated 29th January, 2019](#), [Notification No. 51/2019 – Central Tax dated 31st October, 2019](#), [Notification No. 02/2021 - Central Tax dated 12th January, 2021](#), [Notification No. 02/2022-Central Tax dated 11th March, 2022](#) and [Notification No. 39/2023 – Central Tax dated 17<sup>th</sup> August 2023](#) -

In exercise of the powers under section 3 read with section 5 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and section 3 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Board of Excise and Customs has appointed –

- (a) Principal Chief Commissioners of Central Tax and Principal Directors General of Central Tax,
- (b) Chief Commissioners of Central Tax and Directors General of Central Tax,
- (c) Principal Commissioners of Central Tax and Principal Additional Directors General of Central Tax,
- (d) Commissioners of Central Tax and Additional Directors General of Central Tax,
- (e) Additional Commissioners of Central Tax and Additional Directors of Central Tax,
- (f) Joint Commissioners of Central Tax and Joint Directors of Central Tax,

- (g) Deputy Commissioners of Central Tax and Deputy Directors of Central Tax,
- (h) Assistant Commissioners of Central Tax and Assistant Directors of Central Tax,
- (i) Commissioners of Central Tax (Audit),
- (j) Commissioners of Central Tax (Appeals),
- (k) Additional Commissioners of Central Tax (Appeals),

and the central tax officers sub-ordinate to them as central tax officers and vests them with all the powers under both the said Acts and the rules made thereunder with respect to the territorial jurisdiction specified in the notification.

Further, In exercise of the powers conferred under section 3 read with section 5 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and section 3 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Board of Excise and Customs has issued [Notification 14/2017-Central Tax, dated 1st July 2017](#) as amended vide [Notification No. 01/2023 – Central Tax dated 4<sup>th</sup> January 2023](#) and appointed the officers in the Directorate General of Goods and Services Tax Intelligence, Directorate General of Goods and Services Tax and Directorate General of Audit as specified in column (2) of the Table below, as central tax officers and invests them with all the powers under the Central Goods and Services Tax Act, 2017 and the Integrated Goods and Services Tax Act, 2017 and the rules made there under, throughout the territory of India, as are exercisable by the central tax officers of the corresponding rank as specified in column (3) of the said Table, namely:-

**Table**

Sl. No.	Officers	Officers whose powers are to be exercised
(1)	(2)	(3)
1.	Principal Director General, Goods and Services Tax Intelligence or Principal Director General, Goods and Services Tax	Principal Chief Commissioner
2.	Director General, Audit	Chief Commissioner
3.	Principal Additional Director General, Goods and Services Tax Intelligence or Principal Additional Director General, Goods and Services Tax or Principal Additional Director General, Audit	Principal Commissioner
4.	Additional Director General, Goods and Services Tax Intelligence or Additional Director General, Goods and Services Tax or Additional Director General, Audit	Commissioner

5.	Additional Director, Goods and Services Tax Intelligence or Additional Director, Goods and Services Tax or Additional Director, Audit	Additional Commissioner
6.	Joint Director, Goods and Services Tax Intelligence or Joint Director, Goods and Services Tax or Joint Director, Audit	Joint Commissioner
7.	Deputy/Assistant Director, Goods and Services Tax Intelligence or Deputy/Assistant Director, Goods and Services Tax or Deputy/Assistant Director, Audit	Deputy Commissioner or Assistant Commissioner
8.	Senior Intelligence Officer, Goods and Services Tax Intelligence or Superintendent, Goods and Services Tax or Superintendent, Audit	Superintendent
[8A	Additional Assistant Director, Goods and Services Tax Intelligence or Additional Assistant Director, Goods and Services Tax or Additional Assistant Director, Audit	Superintendent]
9.	Intelligence Officer, Goods and Services Tax Intelligence or Inspector, Goods and Services Tax or Inspector, Audit	Inspector

**2.1.2.1 Judicial Observations– Deputy Commissioner of the State Tax is the “proper officer” to issue a notice, conduct proceedings and pass the impugned adjudication order under section 74 of the Act.**

Solitary ground pressed in the present petition is - lack of inherent jurisdiction with the Deputy Commissioner to issue a notice, conduct proceedings and pass the impugned adjudication order under section 74 of the Act.

Findings: On a plain reading of section 5(3) of the Act, we find, the Commissioner has been granted a general power to sub-delegate all or any of his powers/functions to any other officer who may be subordinate to him. It would include within its plain ambit, the sub-delegation of function jurisdiction or the power to act as the “proper officer”, to adjudicate a dispute under section 74 of the Act.

Deputy Commissioner is an officer of the State Tax whose function assignment has been made in terms of section 2(91) read with sections 4(2) and 5(3) of the Act, by virtue of Office Order dated 01.07.2017 read with further Office Order dated 19.11.2018.

Held: Thus no defect exists in the exercise of power made by the Deputy Commissioner. The challenge raised in the present petition thus fails. Accordingly, the writ petition is dismissed.

Ref: M/S Maa Geeta Traders v Commissioner Commercial Tax And Another - WRIT TAX No. - 760 of 2021 – Allahabad High Court – [HC-GW-168-2021-UP](#)

**2.1.2.2 Judicial Observations– Challenge to constitutional validity of Circular dated 05.07.2017 issued by the Central Board of Indirect Taxes & Customs, assigning functions of 'Proper Officer' under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') and Gazette Notification dated 01.07.2017 does not hold any water at all.**

Constitutional validity of Circular dated 05.07.2017 issued by the Central Board of Indirect Taxes & Customs, assigning functions of 'Proper Officer' under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') and Gazette Notification dated 01.07.2017 are put to challenge in these writ petitions.

The challenge is mainly on three counts. Firstly, that the power of appointment under Section 3 of the CGST Act is vested exclusively upon the Government and not on the 2nd Respondent/Board and as such, Annexure P2 Notification is bad. Secondly, that the Notification (Annexure P-2) issued in exercise of the powers under Section 3, read with Section 5 of the CGST Act and Section 3 of the IGST Act, admittedly has been issued by the 2nd Respondent/Board and not by the Government, who alone is the competent authority to issue such appointment order. Thirdly, since no notification has been issued by the Government, but for Annexure P-2 issued by the Board, it is not a valid notification to be acted upon, and as such, Annexure P-1 order dated 05.07.2017 assigning the functions of 'Proper Officer' as specified therein, in exercise of power under Section 2(91) of the CGST Act, read with Section 20 of the IGST Act and subject to Section 5(2) of the CGST Act, assigning such powers by the 2nd Respondent/Board, is not correct or sustainable.

**Held:** We find that the challenge raised against Annexure P-1 Circular and Annexure P-2 Notification with reference to the competence of the issuing authority and the manner of issuance does not hold any water at all. In the said context, there is no relevance for the various judgments cited on the part of the Petitioners as to the nature of publication to be effected and they are not attracted to the case in hand.

The writ petitions are devoid of any merit and they are dismissed accordingly.

Ref: Sri Ravi Agarwal v Union of India & others - Writ Petition (T) No. 77 of 2019 - HIGH COURT OF CHHATTISGARH, BILASPUR - [HC-GW-637-2019-CHT](#)

**2.1.2.3 Judicial Observations– The Commissioner is not an adjudicating authority, hence an appeal will not lie against the orders passed by him under Section 107 of the Uttarakhand Act shall also be applicable to any orders passed by the Assistant Commissioner, be it attachment of property or cancellation of GST registration number - Single Judge has committed error by holding that the writ petition is not maintainable, and, therefore, the same requires to be set aside.**

Section 2(4) of the Uttarakhand Act defines “adjudicating authority” to mean any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Commissioner, Revisional Authority etc. - Term 'adjudicating authority' does not include among other authorities, office of Assistant Commissioner - the office of the Assistant Commissioner acts under the aegis and control of the Commissioner, and nowhere in the Uttarakhand Act, it is provided that he shall act independently to the duties assigned to him by the Commissioner. - the Commissioner is not an adjudicating authority, hence an appeal will not lie against the orders passed by him under Section 107 of the Uttarakhand Act shall also be applicable to any orders passed by the Assistant Commissioner, be it attachment of property or cancellation of GST registration number - we are of the view that the learned Single Judge has committed error by holding that the writ petition is not maintainable, and, therefore,

the same requires to be set aside. However, we are also aware of the fact that the learned Single Judge has not given any findings about the merits on the claim of the petitioner/ appellant so far as the cancellation of his GST Registration number is concerned. Hence, the matter has to be remanded. Ref : Vinod Kumar v Commissioner Uttarakhand State GST and others - HIGH COURT OF UTTARAKHAND AT NAINITAL - SPECIAL APPEAL NO. 123 OF 2022 - [HC-GW-41-2022-UK](#)

**2.1.2.4 Judicial Observations– different Officers appointed under Sections 3 & 6 of CGST Act, 2017 are independently investigating altogether different matters, in accordance with law, without any overlapping. - the investigations being conducted by competent Officers against the petitioner are not hit by provisions of Section 6(2)(b) of CGST Act, 2017.**

The petitioner has filed this petition seeking quashing of summons dated 8.12.2020 (Annexure P-14) by way of writ of Certiorari and further to restrain Respondent No.1-Additional Director General, Ludhiana Zonal Unit, Directorate General of GST Intelligence from carrying out further investigation against him. - different Officers appointed under Sections 3 & 6 of CGST Act, 2017 are independently investigating altogether different matters, in accordance with law, without any overlapping. Moreover, the abovesaid alleged contraventions are prima facie cognizable and punitive in nature under CGST Act, 2017.

Held: We are of the view that the investigations being conducted by competent Officers against the petitioner are not hit by provisions of Section 6(2)(b) of CGST Act, 2017. So, we see no reason to interfere with the aforesaid investigations undertaken by the competent authorities against the petitioner under CGST Act, 2017. Consequently, the writ petition is hereby dismissed having no merits. Ref: Kaushal Kumar Mishra v Additional Director General, Ludhiana Zonal Unit and another - HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH - CWP-21387-2020 (O&M) - [HC-GW-41-2021-PJ](#)

**2.1.2.5 Judicial Observations– The expression 'the Commissioner' would necessarily mean the Commissioner who exercises its powers in respect of 'the taxable person'. Section 83 of the CGST Act must be read in harmony with Section 3 and Section 5 of the CGST Act and the Commissioner, whose territorial jurisdiction is confined by the Board to a particular territory, would not have the jurisdiction to discharge the functions under the CGST Act beyond its territorial jurisdiction. Thus, for the purposes of the CGST Act, the expression 'the Commissioner' must necessarily be read to be the Commissioner who is empowered to discharge the functions under the CGST Act.**

Commissioner - Meaning and scope - the expression 'the Commissioner' would necessarily mean the Commissioner who exercises its powers in respect of 'the taxable person'. Section 83 of the CGST Act must be read in harmony with Section 3 and Section 5 of the CGST Act and the Commissioner, whose territorial jurisdiction is confined by the Board to a particular



territory, would not have the jurisdiction to discharge the functions under the CGST Act beyond its territorial jurisdiction. Thus, for the purposes of the CGST Act, the expression 'the Commissioner' must necessarily be read to be the Commissioner who is empowered to discharge the functions under the CGST Act. Ref: [SIDHIVINAYAK CHEMTECH PRIVATE LIMITED vs PRINCIPAL COMMISSIONER, CGST, MEERUT AND ORS - THE HIGH COURT OF DELHI AT NEW DELHI - W.P.\(C\) 17547/2022 - HC-GW-223-2023-DL](#)

## 2.2 Appointment of officers. [SECTION 4]

<b>Section 4(1)</b>	22.06.2017 to till date	<b>Power to appoint officers under CGST Act</b> The Board may, in addition to the officers as may be notified by the Government under section 3, appoint such persons as it may think fit to be the officers under this Act.
<b>Section 4(2)</b>	22.06.2017 to till date	<b>The Board may authorise any officers referred to in clauses (a) to (h) of section 3 to appoint any other officer of the central tax law below the rank of Assistant Commissioner of Central tax for administration of this Act.</b> Without prejudice to the provisions of sub-section (1), the Board may, by order, authorise any officer referred to in clauses (a) to (h) of section 3 to appoint officers of central tax below the rank of Assistant Commissioner of central tax for the administration of this Act.

This section empowers the Central Government to appoint any person as it may deem fit to be officers under this Act, in addition to the officers appointed under Section 3 of the CGST Act.

It is also mentioned that the Board may, by order, authorise any officers mentioned in Section 3(a) to 3(h) of the Act, to appoint any other officer of the central tax law below the rank of Assistant Commissioner of Central tax for administration of this Act.

## 2.3 Powers of officers. [SECTION 5]

<b>Section 5(1)</b>	22.06.2017 to till date	<b>Powers and duties of an officer of central tax.</b> An officer of central tax may exercise the powers and discharge the duties conferred or imposed on him under the CGST Act subject to such conditions and limitations as the Board may impose,
<b>Section 5(2)</b>	22.06.2017 to till date	<b>Powers and duties of subordinate officer may be exercised or discharged by an officer of central tax.</b>

		An officer of central tax may exercise the powers and discharge the duties conferred or imposed under this Act on any other officer of central tax who is subordinate to him.
<b>Section 5(3)</b>	22.06.2017 to till date	<b>The Commissioner may delegate his powers to any other officer who is subordinate to him.</b> The Commissioner may, subject to such conditions and limitations as may be specified in this behalf by him, delegate his powers to any other officer who is subordinate to him.
<b>Section 5(4)</b>	22.06.2017 to till date	<b>An Appellate Authority shall not exercise the powers and discharge the duties conferred or imposed on any other officer of central tax.</b> Notwithstanding anything contained in this section, an Appellate Authority shall not exercise the powers and discharge the duties conferred or imposed on any other officer of central tax.

These provisions enable delegation of powers by an officer appointed under this Act to its subordinate officers. However, an Appellate Authority shall not exercise the powers and discharge the duties conferred or imposed on any other officer of central tax.

### **2.3.1.1 Departmental Notifications - Notification to notify jurisdiction of Central Tax Officers**

[Notification No. 2/2017-CT, dated 19th June, 2017](#) as amended vide [Notification No. 79/2018 – Central Tax dated 31st December, 2018](#), [Notification No. 04/2019 – Central Tax dated 29th January, 2019](#), [Notification No. 51/2019 – Central Tax dated 31st October, 2019](#), [Notification No. 02/2021 - Central Tax dated 12th January, 2021](#), [Notification No. 02/2022-Central Tax dated 11th March, 2022](#) and [Notification No. 39/2023 – Central Tax dated 17<sup>th</sup> August 2023](#) -

In exercise of the powers under section 3 read with section 5 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and section 3 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Board of Excise and Customs has appointed –

- (a) Principal Chief Commissioners of Central Tax and Principal Directors General of Central Tax,
- (b) Chief Commissioners of Central Tax and Directors General of Central Tax,
- (c) Principal Commissioners of Central Tax and Principal Additional Directors General of Central Tax,



- (d) Commissioners of Central Tax and Additional Directors General of Central Tax,
- (e) Additional Commissioners of Central Tax and Additional Directors of Central Tax,
- (f) Joint Commissioners of Central Tax and Joint Directors of Central Tax,
- (g) Deputy Commissioners of Central Tax and Deputy Directors of Central Tax,
- (h) Assistant Commissioners of Central Tax and Assistant Directors of Central Tax,
- (i) Commissioners of Central Tax (Audit),
- (j) Commissioners of Central Tax (Appeals),
- (k) Additional Commissioners of Central Tax (Appeals),

and the central tax officers sub-ordinate to them as central tax officers and vests them with all the powers under both the said Acts and the rules made thereunder with respect to the territorial jurisdiction specified in the notification.

**2.3.1.2 Departmental Notifications - Assign jurisdiction and power to officers of various directorates**

In exercise of the powers conferred under section 3 read with section 5 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and section 3 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Central Board of Excise and Customs has issued [Notification 14/2017-Central Tax, dated 1st July 2017](#) as amended vide [Notification No. 01/2023 – Central Tax dated 4<sup>th</sup> January 2023](#) and appointed the officers in the Directorate General of Goods and Services Tax Intelligence, Directorate General of Goods and Services Tax and Directorate General of Audit as specified in column (2) of the Table below, as central tax officers and invests them with all the powers under the Central Goods and Services Tax Act, 2017 and the Integrated Goods and Services Tax Act, 2017 and the rules made there under, throughout the territory of India, as are exercisable by the central tax officers of the corresponding rank as specified in column (3) of the said Table, namely:-

**Table**

Sl. No.	Officers	Officers whose powers are to be exercised
(1)	(2)	(3)

1.	Principal Director General, Goods and Services Tax Intelligence or Principal Director General, Goods and Services Tax	Principal Chief Commissioner
2.	Director General, Audit	Chief Commissioner
3.	Principal Additional Director General, Goods and Services Tax Intelligence or Principal Additional Director General, Goods and Services Tax or Principal Additional Director General, Audit	Principal Commissioner
4.	Additional Director General, Goods and Services Tax Intelligence or Additional Director General, Goods and Services Tax or Additional Director General, Audit	Commissioner
5.	Additional Director, Goods and Services Tax Intelligence or Additional Director, Goods and Services Tax or Additional Director, Audit	Additional Commissioner
6.	Joint Director, Goods and Services Tax Intelligence or Joint Director, Goods and Services Tax or Joint Director, Audit	Joint Commissioner
7.	Deputy/Assistant Director, Goods and Services Tax Intelligence or Deputy/Assistant Director, Goods and Services Tax or Deputy/Assistant Director, Audit	Deputy Commissioner or Assistant Commissioner
8.	Senior Intelligence Officer, Goods and Services Tax Intelligence or Superintendent, Goods and Services Tax or Superintendent, Audit	Superintendent
[8A	Additional Assistant Director, Goods and Services Tax Intelligence or Additional Assistant Director, Goods and Services Tax or Additional Assistant Director, Audit	Superintendent]
9.	Intelligence Officer, Goods and Services Tax Intelligence or Inspector, Goods and Services Tax or Inspector, Audit	Inspector

### 2.3.1.3 Departmental Notifications - Revisional Authority under section 108 of the CGST Act

In pursuance of the provisions of section 5 read with clause (99) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017), CBIC has issued [Notification No. 05/2020-Central Tax, dated, 13th January, 2020](#), authorising the Principal Commissioner or Commissioner of Central Tax for decisions or orders passed by the Additional or Joint Commissioner of Central Tax and the Additional or Joint Commissioner of Central Tax for decisions or orders passed by the Deputy Commissioner or Assistant Commissioner or Superintendent of Central Tax, as the Revisional Authority under section 108 of the said Act.

### 2.3.1.4 Departmental Notifications - Appointment of Common Adjudicating authority for adjudicating the show cause notices

[Notification No. 35/2023 – Central Tax dated 31st July, 2023](#) - In exercise of the powers conferred by section 5 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and section 3 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Board, hereby

appoint officers mentioned in column (5) of the Table below to act as the Authority to exercise the powers and discharge the duties conferred or imposed on officers mentioned in column (4) of the said Table in respect of noticees mentioned in column (2) of the said Table for the purpose of adjudication of notices mentioned in column (3) of the said Table, namely:-

**TABLE**

Sl. No.	Name of Noticees and Address	Notice Number and Date	Name of Adjudicating Authorities	Name of the Authority
(1)	(2)	(3)	(4)	(5)
1.	BSH Household Appliances Manufacturing Pvt. Ltd, Situated 2nd Floor, Arena House, Plot No. - 103, Road No. - 12, MIDC, Andheri (East), Mumbai-400093	03/CGST/ME/Div-X/Supdt/BSH/2022-23 dated 16.03.2023 issued vide F.No. CGST- A2/MUM/G-29/BSH/5693/5335/2021/9893 to 9896 Dt. 16.03.2023	Superintendent, Division-X, CGST and Central Excise Mumbai East Commissionerate	Joint or Additional Commissioner of Central Tax, Bengaluru South Central Excise and GST Commissionerate
2.	BSH Household Appliances Manufacturing Pvt. Ltd, 4th Floor, South Tower KRM Plaza No. 2, Harrington Road, Chetpet, Chennai- 600031	02/2023-GST CH.N (ADC) dated 27.03.2023 issued vide C.NoGEXCOM/ADJN/GST/ADC/684/2022 Dt. 27.03.2023	Additional Commissioner, CGST and Central Excise Chennai North	
3.	BSH Household Appliances Manufacturing	58/2022-23 dated 03.03.2023 issued vide	Joint or Additional Commissioner of Central Tax,	

Pvt. Ltd, No-8, GF & FF, 15th Cross, JP Nagar, 6th Phase, Bengaluru Urban, Karnataka- 560078	C.No.GEXCOM/ADJN/GST/ADC/7 21/2022- ADJN Dt. 03.03.2023	Bengaluru South Central Excise and GST Commissionerate
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Further, [Notification No. 40/2023 – Central Tax dated 17th August, 2023](#) - In exercise of the powers conferred by section 5 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and section 3 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Board, has appointed officers mentioned in column (5) of the Table below to act as the Authority to exercise the powers and discharge the duties conferred or imposed on officers mentioned in column (4) of the said Table in respect of noticee mentioned in column (2) of the said Table for the purpose of adjudication of notice mentioned in column (3) of the said Table, namely:-

**TABLE**

Sl. No.	Name of Noticee and Address	Notice Number and Date	Name of adjudicating Authority	Name of the Authority
(1)	(2)	(3)	(4)	(5)
1	M/s United Spirits Ltd. (USL), 26 <sup>th</sup> floor, A Wing, Marathon Futurex, N.M. Joshi Marg, Lower Parel, Mumbai, Maharashtra-400013.	37/ADC/CGST / MC/ Audit-II / 2022 dated 24.08.2022 issued vide F.No.CGST-A2/MUM/F 22/GST/United Spirits/5307/5668/2021/5962.	Joint or Additional Commissioner, CGST and Central Excise, Mumbai Central Commissionerate.	Joint or Additional Commissioner of Central Tax, Kolkata North Central Excise and GST Commissionerate.

Further, [Notification No. 46/2023 – Central Tax dated 18th September, 2023](#) – In exercise of the powers conferred by section 5 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and section 3 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), the Board, hereby appoint officers mentioned in column (5) of the Table below to act as the Authority to exercise the powers and discharge the duties conferred or imposed on officers mentioned in column (4) of the said Table in respect of noticee mentioned in column (2) of the

said Table for the purpose of adjudication of notice mentioned in column (3) of the said Table, namely:-

**TABLE**

Sl. No.	Name of Noticee and Address	Notice Number and Date	Name of adjudicating Authority	Name of the Authority
(1)	(2)	(3)	(4)	(5)
1	M/s Inkuat Infrasol Pvt. Ltd., 1st Floor, H.No. 2067/8, Flat No. 101, E Wing, Roopkamal Plaza, opp. Rajlaxmi kalher Thane, Bhiwandi, Thane-421302.	39/PK/Inkuat/2021-22 dated 25.03.2022	Joint or Additional Commissioner, CGST and Central Excise Bhiwandi Commissionerate.	Joint or Additional Commissioner, CGST and Central Excise Thane Commissionerate [holding the charge of adjudication of DGGI cases].

**2.3.2.1 Departmental Clarifications - Proper officer for provisions relating to Registration and Composition levy under the Central Goods and Services Tax Act, 2017 or the rules made thereunder - [Circular No.1/1/2017-GST dated 26th June, 2017](#)**

In exercise of the powers conferred by Clause (91) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the Act) read with Section 20 of the Integrated Goods and Services Tax Act (13 of 2017) and subject to sub-section (2) of section 5 of the said Act, the Board, vide [Circular No.1/1/2017-GST dated 26th June, 2017](#), assigned the officers mentioned in Column (2) of the Table below, the functions as the proper officers in relation to registration and composition levy under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") and the rules made there under.

**Table**

Serial Number	Designation of the Officer	Functions under Section of the Central Goods and Services Tax Act, 2017 or the rules made thereunder
(1)	(2)	(3)

1.	Assistant or Deputy Commissioners of Central Tax and Assistant or Deputy Directors of Central Tax	<ul style="list-style-type: none"> <li>i. Sub-Section (5) of Section 10</li> <li>ii. Proviso to Sub-Section (1) of Section 27</li> <li>iii. Section 30</li> <li>iv. Rule 6</li> <li>v. Rule 23</li> <li>vi. Rule 25</li> </ul>
2.	Superintendent of Central Tax	<ul style="list-style-type: none"> <li>i. Sub-section (8) of Section 25</li> <li>ii. Section 28</li> <li>iii. Section 29</li> <li>iv. Rule 9</li> <li>v. Rule 10</li> <li>vi. Rule 12</li> <li>vii. Rule 16</li> <li>viii. Rule 17</li> <li>ix. Rule 19</li> <li>x. Rule 22</li> <li>xi. Rule 24</li> </ul>

**2.3.2.2 Departmental Clarifications - Proper officer relating to provisions other than Registration and Composition under the Central Goods and Services Tax Act, 2017 - [Circular No. 3/3/2017-GST, dated 5th July, 2017](#)**

In exercise of the powers conferred by clause (91) of section 2 of the Central Goods and Services Tax Act, 2017 (12 of 2017) read with Section 20 of the Integrated Goods and Services Tax Act (13 of 2017) and subject to sub-section (2) of section 5 of the Central Goods and Services Tax Act, 2017, the Board, has issued [Circular No. 3/3/2017-GST, dated 5th July, 2017](#) to assign the officers mentioned in Column (2) of the Table below, the functions other than Registration and Composition as the proper officers in relation to the various sections of



the Central Goods and Services Tax Act, 2017 or the rules made thereunder given in the corresponding entry in Column (3) of the said Table:-

**Table**

S. No.	Designation of the officer	Functions under Section of the Central Goods and Services Tax Act, 2017 or the rules made thereunder
(1)	(2)	(3)
1.	Principal Commissioner/ Commissioner of Central Tax	i. Sub- section (7) of Section 67 ii. Proviso to Section 78
2.	Additional or Joint Commissioner of Central Tax	i. Sub- sections (1), (2), (5) and (9) of Section 67 ii. Sub-section (1) and (2) of Section 71 iii. Proviso to section 81 iv. Proviso to sub-section (6) of Section 129 v. Sub-rules (1),(2),(3) and (4) of Rule 139 vi. Sub-rule (2) of Rule 140
3.	Deputy or Assistant Commissioner of Central Tax	i. Sub-sections (5), (6), (7) and (10) of Section 54 ii. Sub-sections (1), (2) and (3) of Section 60 iii. Section 63 iv. Sub-section (1) of Section 64 v. Sub-section (6) of Section 65 vi. Sub-sections (1), (2), (3), (5), (6), (7), (9), (10) of Section 74 vii. Sub-sections (2), (3), (6) and (8) of Section 76 viii. Sub-section (1) of Section 79 ix. Section 123 x. Section 127 xi. Sub-section (3) of Section 129

		<p>xii. Sub- sections (6) and (7) of Section 130</p> <p>xiii. Sub- section (1) of Section 142</p> <p>xiv. Sub-rule (2) of Rule 82</p> <p>xv. Sub-rule (4) of Rule 86</p> <p>xvi. Explanation to Rule 86</p> <p>xvii. Sub-rule (11) of Rule 87</p> <p>xviii. Explanation 2 to Rule 87</p> <p>xix. Sub-rules (2) and (3) of Rule 90</p> <p>xx. Sub-rules (2) and (3) of Rule 91</p> <p>xxi. Sub-rules(1), (2), (3), (4) and (5) of Rule 92</p> <p>xxii. Explanation to Rule 93</p> <p>xxiii. Rule 94</p> <p>xxiv. Sub-rule (6) of Rule 96</p> <p>xxv. Sub-rule (2) of Rule 97</p> <p>xxvi. Sub-rule (2), (3), (4), (5) and (7) of Rule 98</p> <p>xxvii. Sub-rule (2) of Rule 100</p> <p>xxviii. Sub-rules (2), (3), (4) and (5) of Rule 101</p> <p>xxix. Rule 143</p> <p>xxx. Sub-rules (1), (3), (4), (5), (6) and (7) of Rule 144</p> <p>xxxi. Sub-rules (1) and (2) of Rule 145</p> <p>xxxii. Rule 146</p> <p>xxxiii. Sub-rules (1), (2), (3), (5), (6), (7), (8), (10),(11), (12), (14) and (15) of Rule 147</p> <p>xxxiv. Sub-rules(1),(2) and (3) of Rule 151</p>
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		xxxv. Rule 152 xxxvi. Rule 153 xxxvii. Rule 155 xxxviii. Rule 156
4.	Superintendent of Central Tax	i. Sub-section (6) of Section 35 ii. Sub-sections (1) and (3) of Section 61 iii. Sub-section (1) of Section 62 iv. Sub-section (7) of Section 65 v. Sub-section (6) of Section 66 vi. Sub-section (11) of Section 67 vii. Sub-section (1) of Section 70 viii. Sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of Section 73 ix. Sub-rule (6) of Rule 56 x. Sub-rules (1), (2) and (3) of Rule 99 xi. Sub-rule (1) of Rule 132 xii. Sub-rule (1), (2), (3) and (7) of Rule 142 xiii. Rule 150
5.	Inspector of Central Tax	i. Sub-section (3) of Section 68 ii. Sub-rule (17) of Rule 56 iii. Sub-rule (5) of Rule 58

**2.3.2.3 Departmental Clarifications - Officer authorized for enrolling or rejecting application for Goods and Services Tax Practitioner - [Circular No 9/9/2017- GST dated 18th October, 2017](#)**

The Board has issued [Circular No 9/9/2017- GST dated 18th October, 2017](#) wherein the Board, has specified the Assistant Commissioner/Deputy Commissioner, having jurisdiction over the place declared as address in the application for enrolment as Goods and Service Tax Practitioner in FORM GST PCT-1 submitted in terms of sub-section (1) of section 48 of the

Central Goods and Services Tax Act, 2017 read with sub-rule (2) of rule 83 of the Central Goods and Service Tax Rules, 2017 as the officer authorized to approve or reject the said application.

It is also clarified than the applicant shall be at liberty to choose either the Centre or the State as the enrolling authority. The choice will have to be specified by the applicant in Item 1 of Part B of FORM GST PCT-1.

**2.3.2.4 Departmental Clarifications - Proper officer under sections 73 and 74 of the Central Goods and Services Tax Act, 2017 and under the Integrated Goods and Services Tax Act, 2017 - [Circular No. 31/05/2018-GST dated 9th February 2018](#)**

The Board, vide [Circular No.1/1/2017-GST dated 26th June, 2017](#), assigned proper officers for provisions relating to registration and composition levy under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “CGST Act”) and the rules made thereunder. Further, vide [Circular No. 3/3/2017-GST, dated 5th July, 2017](#), the proper officers for provisions other than registration and composition under the CGST Act were assigned. In the latter Circular, the Deputy or Assistant Commissioner of Central Tax was assigned as the proper officer under sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of section 74 while the Superintendent of Central Tax was assigned as the proper officer under sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of section 73 of the CGST Act.

The Board has issued [Circular No. 31/05/2018-GST dated 9th February 2018](#) wherein It has now been decided by the Board that Superintendent of Central Tax shall also be empowered to issue show cause notices and orders under Section 74 of the CGST Act. Accordingly, the following entry has been added to the item at Sl. No. 4 of the Table on page number 3 of [Circular No. 3/3/2017-GST, dated 5th July, 2017](#), namely :-

Sl. No.	Designation of the Officer	Functions under Section of the Central Goods and Services Tax Act, 2017 or the rules made thereunder
(1)	(2)	(3)
4.	Superintendent of Central Tax	viii(a). Sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of Section 74

Further, Board vide its [Circular No. 31/05/2018-GST dated 9th February 2018](#), in light of sub-section (2) of section 5 of the CGST Act, whereby an officer of central tax may exercise the powers and discharge the duties conferred or imposed under the CGST Act on any other officer of central tax who is subordinate to him, has removed the following entry from the Table on page number 2 of [Circular No. 3/3/2017-GST dated 5th July, 2017](#) :-

<b>Sl. No.</b>	<b>Designation of the Officer</b>	<b>Functions under Section of the Central Goods and Services Tax Act, 2017 or the rules made thereunder</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
3.	Deputy or Assistant Commissioner of Central Tax	vi. Sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of Section 74

In other words, all officers up to the rank of Additional / Joint Commissioner of Central Tax are assigned as the proper officer for issuance of show cause notices and orders under sub-sections (1), (2), (3), (5), (6), (7), (9) and (10) of Section 73 and 74 of the CGST Act. Further, they are so assigned under the Integrated Goods and Services Tax Act, 2017 as well, as per Section 3 read with Section 20 of the said Act.

Whereas, for optimal distribution of work relating to the issuance of show cause notices and orders under sections 73 and 74 of the CGST Act and also under the IGST Act, monetary limits for different levels of officers of central tax need to be prescribed. Therefore, in pursuance of clause (91) of section 2 of the CGST Act read with section 20 of the IGST Act, the Board hereby assigns the officers mentioned in Column (2) of the Table below, the functions as the proper officers in relation to issue of show cause notices and orders under sections 73 and 74 of the CGST Act and section 20 of the IGST Act (read with sections 73 and 74 of the CGST Act), up to the monetary limits as mentioned in columns (3), (4) and (5) respectively of the Table below:-

**Table**

<b>Sl. No.</b>	<b>Officer of Central Tax</b>	<b>Monetary limit of the amount of central tax (including cess) not paid or short paid or erroneously refunded or input tax credit of central tax wrongly availed or utilized for issuance of show cause notices and passing of orders under sections 73 and 74 of CGST Act</b>	<b>Monetary limit of the amount of integrated tax (including cess) not paid or short paid or erroneously refunded or input tax credit of integrated tax wrongly availed or utilized for issuance of show cause notices and passing of orders under sections 73 and 74 of CGST Act made applicable to matters in relation to integrated tax vide section 20 of the IGST Act</b>	<b>Monetary limit of the amount of central tax and integrated tax (including cess) not paid or short paid or erroneously refunded or input tax credit of central tax and integrated tax wrongly availed or utilized for issuance of show cause notices and passing of orders under sections 73 and 74 of CGST Act made applicable to integrated tax vide section 20 of the IGST Act</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>	<b>(5)</b>

1.	Superintendent of Central Tax	Not exceeding ₹ 10 lakhs	Not exceeding ₹ 20 lakhs	Not exceeding ₹ 20 lakhs
2.	Deputy or Assistant Commissioner of Central Tax	Above ₹ 10 lakhs and not exceeding ₹ 1 crore	Above ₹ 20 lakhs and not exceeding ₹ 2 crores	Above ₹ 20 lakhs and not exceeding ₹ 2 crores
3.	Additional or Joint Commissioner of Central Tax	Above ₹ 1 crore without any limit	Above ₹ 2 crores without any limit	Above ₹ 2 crores without any limit

The central tax officers of Audit Commissionerates and Directorate General of Goods and Services Tax Intelligence (hereinafter referred to as "DGGSTI") shall exercise the powers only to issue show cause notices. A show cause notice issued by them shall be adjudicated by the competent central tax officer of the Executive Commissionerate in whose jurisdiction the noticee is registered. In case there are more than one noticees mentioned in the show cause notice having their principal places of business falling in multiple Commissionerates, the show cause notice shall be adjudicated by the competent central tax officer in whose jurisdiction, the principal place of business of the noticee from whom the highest demand of central tax and/or integrated tax (including cess) has been made falls.

Notwithstanding anything contained in para 6 above, a show cause notice issued by DGGSTI in which the principal places of business of the noticees fall in multiple Commissionerates and where the central tax and/or integrated tax (including cess) involved is more than ₹ 5 crores shall be adjudicated by an officer of the rank of Additional Director/Additional Commissioner (as assigned by the Board), who shall not be on the strength of DGGSTI and working there at the time of adjudication. Cases of similar nature may also be assigned to such an officer."

In case show cause notices have been issued on similar issues to a noticee(s) and made answerable to different levels of adjudicating authorities within a Commissionerate, such show cause notices should be adjudicated by the adjudicating authority competent to decide the case involving the highest amount of central tax and/or integrated tax (including cess).

**2.3.2.5 Departmental Clarifications - Amendment to [Circular No. 31/05/2018-GST dated 9th February 2018](#) on 'Proper officer under sections 73 and 74 of the Central Goods and Services Tax Act, 2017 and under the Integrated Goods and Services Tax Act, 2017' - [Circular No.169/01/2022-GST dated 12th March, 2022](#)**

Vide [Notification No. 02/2022-Central Tax dated 11th March, 2022](#), para 3A has been inserted in the [Notification No. 2/2017-Central Tax dated 19th June, 2017](#), to empower Additional Commissioners of Central Tax/ Joint Commissioners of Central Tax of some of the specified



Central Tax Commissionerates, with All India Jurisdiction for the purpose of adjudication of the show cause notices issued by the officers of the Directorate General of Goods and Services Tax Intelligence. Consequently, para 6 and 7 of the [Circular No. 31/05/2018-GST dated 9th February 2018](#) are hereby amended as below:

6. The Central Tax officers of Audit Commissionerates and Directorate General of Goods and Services Tax Intelligence (hereinafter referred to as "DGGI") shall exercise the powers only to issue show cause notices. A show cause notice issued by them shall be adjudicated by the competent Central Tax officer of the executive Commissionerate in whose jurisdiction the noticee is registered when such cases pertain to jurisdiction of one executive Commissionerate of Central Tax only.

7.1 In respect of show cause notices issued by officers of DGGI, there may be cases where the principal place of business of noticees fall under the jurisdiction of multiple Central Tax Commissionerates or where multiple show cause notices are issued on the same issue to different noticees, including the persons having the same PAN but different GSTINs, having principal place of business falling under jurisdiction of multiple Central Tax Commissionerates. For the purpose of adjudication of such show cause notices, Additional/Joint Commissioners of Central Tax of specified Commissionerates have been empowered with All India jurisdiction vide Notification No. 02/2022-Central Tax dated 11th March, 2022. Such show cause notices may be adjudicated, irrespective of the amount involved in the show cause notice(s), by one of the Additional/Joint Commissioners of Central Tax empowered with All India jurisdiction vide [Notification No. 02/2022-Central Tax dated 11th March, 2022](#). Principal Commissioners/Commissioners of the Central Tax Commissionerates specified in the said notification will allocate charge of Adjudication (DGGI cases) to one of the Additional Commissioners/ Joint Commissioners posted in their Commissionerates. Where the location of principal place of business of the noticee, having the highest amount of demand of tax in the said show cause notice(s), falls under the jurisdiction of a Central Tax Zone mentioned in column 2 of the table below, the show cause notice(s) may be adjudicated by the Additional Commissioner/ Joint Commissioner of Central Tax, holding the charge of Adjudication (DGGI cases), of the Central Tax Commissionerate mentioned in column 3 of the said table corresponding to the said Central Tax Zone. Such show cause notice(s) may, accordingly, be made answerable by the officers of DGGI to the concerned Additional/ Joint Commissioners of Central Tax.

#### TABLE

Sl. No.	Central Tax Zone in whose jurisdiction the location of the principal place of business of the noticee having highest amount of demand of tax involved falls	Central Tax Commissionerate whose Additional Commissioner or Joint Commissioner shall adjudicate show cause notices issued by officers of DGGI
(1)	(2)	(3)
1.	Ahmedabad	Ahmedabad South
2.	Vadodara	
3.	Bhopal	Bhopal
4.	Nagpur	
5.	Chandigarh	Chandigarh
6.	Panchkula	
7.	Chennai	Chennai South
8.	Bengaluru	
9.	Thiruvananthapuram	
10.	Delhi	Delhi North
11.	Jaipur	
12.	Guwahati	Guwahati
13.	Hyderabad	Rangareddy
14.	Visakhapatnam (Amaravathi)	
15.	Bhubaneshwar	
16.	Kolkata	Kolkata North
17.	Ranchi	
18.	Lucknow	Lucknow
19.	Meerut	
20.	Mumbai	Thane
21.	Pune	

7.2 In respect of a show cause notice issued by the Central Tax officers of Audit Commissionerate, where the principal place of business of noticees fall under the jurisdiction of multiple Central Tax Commissionerates, a proposal for appointment of common adjudicating authority may be sent to the Board.

7.3 In respect of show cause notices issued by the officers of DGGI prior to issuance of Notification No. 02/2022-Central Tax dated 11th March, 2022, involving cases mentioned in para 7.1 above and where no adjudication order has been issued till date, the same may be made answerable to the Additional/Joint Commissioners of Central Tax, having All India jurisdiction, in accordance with the criteria mentioned in para 7.1 above, by issuing corrigendum to such show cause notices.

**2.3.3.1 Order - Appointment of common authority for the purpose of exercise of powers under sections 73,74, 75 and 76 of the CGST Act, 2017**

[Order No. 2/2019-GST dated 12th March, 2019](#) - In exercise of the powers conferred by sub-section (1) of section (5) of the Central Goods and Services Tax Act, 2017 (12 of 2017), hereinafter referred to as the “said Act”, read with notification No. 02/2017 – Central Tax dated 19.06.2017, the Central Board of Indirect Taxes and Customs has assigned the case specified at Column (2) of the Table in the Notification to the Central Tax officer specified at Column (3) of the said Table for the purpose specified at Column (4) of the said Table.

**2.3.4.1 Judicial Observations - Dy. Commissioner of State Tax, he could not have issued the show-cause notice under Section 74 of the Act, 2017.**

Constitutionality and vires of this assignment of power vide a Circular has been challenged before various High Courts which are currently pending.

The Gujarat High Court observed that the Government has not issued any notification for appointing any of the officers enumerated from clauses (a) to (g) of Section 3, except the Commissioner of State Tax Act, to issue a show cause notice and in the absence of any specific notification issued by the State Government appointing the Dy. Commissioner of State Tax, he could not have issued the show-cause notice under Section 74 of the Act, 2017. - [Nayara Energy Limited vs Union of India – HC-GW-336-2019-GJ](#)

**2.3.4.2 Judicial Observations– Deputy Commissioner of the State Tax is the “proper officer” to issue a notice, conduct proceedings and pass the impugned adjudication order under section 74 of the Act.**

Solitary ground pressed in the present petition is - lack of inherent jurisdiction with the Deputy Commissioner to issue a notice, conduct proceedings and pass the impugned adjudication order under section 74 of the Act.

Findings: On a plain reading of section 5(3) of the Act, we find, the Commissioner has been granted a general power to sub-delegate all or any of his powers/functions to any other officer who may be subordinate to him. It would include within its plain ambit, the sub-delegation of function jurisdiction or the power to act as the “proper officer”, to adjudicate a dispute under section 74 of the Act.

Deputy Commissioner is an officer of the State Tax whose function assignment has been made in terms of section 2(91) read with sections 4(2) and 5(3) of the Act, by virtue of Office Order dated 01.07.2017 read with further Office Order dated 19.11.2018.

Held: Thus no defect exists in the exercise of power made by the Deputy Commissioner. The challenge raised in the present petition thus fails. Accordingly, the writ petition is dismissed.

Ref: M/S Maa Geeta Traders v Commissioner Commercial Tax And Another - WRIT TAX No. - 760 of 2021 – Allahabad High Court – [HC-GW-168-2021-UP](#)

**2.3.4.3 Judicial Observations– Challenge to constitutional validity of Circular dated 05.07.2017 issued by the Central Board of Indirect Taxes & Customs, assigning functions of 'Proper Officer' under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') and Gazette Notification dated 01.07.2017 does not hold any water at all.**

Constitutional validity of Circular dated 05.07.2017 issued by the Central Board of Indirect Taxes & Customs, assigning functions of 'Proper Officer' under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as 'the CGST Act') and Gazette Notification dated 01.07.2017 are put to challenge in these writ petitions.

The challenge is mainly on three counts. Firstly, that the power of appointment under Section 3 of the CGST Act is vested exclusively upon the Government and not on the 2nd Respondent/Board and as such, Annexure P2 Notification is bad. Secondly, that the Notification (Annexure P-2) issued in exercise of the powers under Section 3, read with Section 5 of the CGST Act and Section 3 of the IGST Act, admittedly has been issued by the 2nd Respondent/Board and not by the Government, who alone is the competent authority to issue such appointment order. Thirdly, since no notification has been issued by the Government, but for Annexure P-2 issued by the Board, it is not a valid notification to be acted upon, and as such, Annexure P-1 order dated 05.07.2017 assigning the functions of 'Proper Officer' as specified therein, in exercise of power under Section 2(91) of the CGST Act, read with Section 20 of the IGST Act and subject to Section 5(2) of the CGST Act, assigning such powers by the 2nd Respondent/Board, is not correct or sustainable.

**Held:** We find that the challenge raised against Annexure P-1 Circular and Annexure P-2 Notification with reference to the competence of the issuing authority and the manner of issuance does not hold any water at all. In the said context, there is no relevance for the various judgments cited on the part of the Petitioners as to the nature of publication to be effected and they are not attracted to the case in hand.

The writ petitions are devoid of any merit and they are dismissed accordingly.

Ref: Sri Ravi Agarwal v Union of India & others - Writ Petition (T) No. 77 of 2019 - HIGH COURT OF CHHATTISGARH, BILASPUR - [HC-GW-637-2019-CHT](#)

**2.3.4.4 Judicial Observations– The Commissioner is not an adjudicating authority, hence an appeal will not lie against the orders passed by him under Section 107 of the Uttarakhand Act shall also be applicable to any orders passed by the Assistant Commissioner, be it attachment of property or cancellation of GST registration number - Single Judge has committed error by holding that the writ petition is not maintainable, and, therefore, the same requires to be set aside.**

Section 2(4) of the Uttarakhand Act defines “adjudicating authority” to mean any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Commissioner, Revisional Authority etc. - Term 'adjudicating authority' does not include among other authorities, office of Assistant Commissioner - the office of the Assistant Commissioner acts under the aegis and control of the Commissioner, and nowhere in the Uttarakhand Act, it is provided that he shall act independently to the duties assigned to him by the Commissioner. - the Commissioner is not an adjudicating authority, hence an appeal will not lie against the orders passed by him under Section 107 of the Uttarakhand Act shall also be applicable to any orders passed by the Assistant Commissioner, be it attachment of property or cancellation of GST registration number - we are of the view that the learned Single Judge has committed error by holding that the writ petition is not maintainable, and, therefore, the same requires to be set aside. However, we are also aware of the fact that the learned Single Judge has not given any findings about the merits on the claim of the petitioner/ appellants so far as the cancellation of his GST Registration number is concerned. Hence, the matter has to be remanded. Ref : Vinod Kumar v Commissioner Uttarakhand State GST and others - HIGH COURT OF UTTARAKHAND AT NAINITAL - SPECIAL APPEAL NO. 123 OF 2022 - [HC-GW-41-2022-UK](#)

**2.3.4.5 Judicial Observations– The Commissioner of State Tax could not have delegated all his powers under the Act 2017 in favour of the Special Commissioner of State Tax and the Additional Commissioners of State Tax by virtue of the power conferred under sub-section (3) of Section 5 of the Act 2017 - The power under Section 69 of the Act can be exercised by the authority upon whom the power is delegated provided the delegatee has reasons to believe that the assessee has committed offence under Section 132 of the Act.**

Questioning the legality and validity of the Notification No. EST/1/Jurisdiction/B.2168 dated 5th July 2017, by which the Commissioner of State Tax has delegated all his powers to the Special Commissioner of State Tax and the Additional Commissioners of State Tax. - the Commissioner of State Tax could not have delegated all his powers under the Act 2017 in favour of the Special Commissioner of State Tax and the Additional Commissioners of State Tax by virtue of the power conferred under sub-section (3) of Section 5 of the Act 2017.

Section 69 of the Act mandates that the reasonable belief should be that of the Commissioner. - whenever a power is to be exercised based on the reasonable belief of the authority upon whom such power has been conferred, the same cannot be delegated though the statute empowers the statutory authority to do so.

Held: it does not make any difference. The very same reasonable belief will be that of the authority upon whom the power is delegated. The power under Section 69 of the Act can be exercised by the authority upon whom the power is delegated provided the delegatee has reasons to believe that the assessee has committed offence under Section 132 of the Act. Therefore, the condition precedent, i.e. 'reasonable belief', for the purpose of exercise of power under Section 69 of the Act remains the same.

In the result, these writ-applications fail and are hereby rejected. Rule stands discharged.

**2.4 Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances. [SECTION 6]**

<p><b>Section 6(1)</b></p>	<p>01.07.2017 to till date</p>	<p><b>The officers appointed under the SGST Act or the UTGST Act authorised to be the proper officers for the purposes of CGST Act.</b></p> <p>Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify.</p>
<p><b>Section 6(2)(a)</b></p>	<p>01.07.2017 to till date</p>	<p><b>Proper officer issuing an order under CGST Act shall also issue an order under SGST Act or UTGST Act.</b></p> <p>Subject to the conditions specified in the notification issued under sub section (1), where any proper officer issues an order under this Act, he shall also issue an order under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as authorised by the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, under intimation to the jurisdictional officer of State tax or Union territory tax;</p>
<p><b>Section 6(2)(b)</b></p>	<p>01.07.2017 to till date</p>	<p><b>No proceedings shall be initiated by the proper officer under CGST Act on the same subject matter if 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.</b></p> <p>Subject to the conditions specified in the notification issued under sub section (1), 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.</p>
<p><b>Section 6(3)</b></p>	<p>01.07.2017 to till date</p>	<p><b>No proceedings for rectification, appeal and revision of any order passed by an officer appointed under CGST Act shall</b></p>



		<p><b>lie before an officer appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.</b></p> <p>Any proceedings for rectification, appeal and revision, wherever applicable, of any order passed by an officer appointed under this Act shall not lie before an officer appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.</p>
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**2.4.1.1 Departmental Notifications - Cross-empowerment of State tax officers for processing and grant of refund**

[Notification No. 39/2017 – Central Tax dated 13th October, 2017](#) - The Central Government has specified that the officers appointed under the respective State Goods and Services Tax Act, 2017 or the Union Territory Goods and Service Tax Act, 2017 (14 of 2017) (hereafter in this notification referred to as “the said Acts”) who are authorized to be the proper officers for the purposes of section 54 or section 55 of the said Acts (hereafter in this notification referred to as “the said officers”) by the Commissioner of the said Acts, shall act as proper officers for the purpose of sanction of refund under section 54 or section 55 of the CGST Act read with the rules made thereunder except rule 96 of the Central Goods and Services Tax Rules, 2017, in respect of a registered person located in the territorial jurisdiction of the said officers who applies for the sanction of refund to the said officers.

Further, [Notification No. 10/2018 – Central Tax dated 23rd January, 2018](#) makes the following amendment in the Notification No. 39/2017 - Central Tax dated the 13th October, 2017, namely:-

In the said notification, for the words and figures “except rule 96”, the words, figures, brackets and letter ‘except sub rules (1) to (8) and sub rule (10) of rule 96” shall be substituted.

**2.4.2.1 Departmental Clarification - Both Central and State GST Authorities can take intelligence based enforcement action against taxpayer**

The Govt. has clarified that both Central and State tax authorities are authorized to initiate intelligence based enforcement action against taxpayers irrespective of the administrative assignment of the taxpayer to any authority.

Central Board Of Excise & Customs (CBIC) has issued a clarification via [D.F.No CBEC/20/43/01/2017-GST\(pt\) Dated 5th oct 2018](#) regarding ambiguity regarding initiation of enforcement action by the Central tax officers in case of taxpayer assigned to the State tax authority and vice versa.

It has been informed that GST Council in its 9th meeting held on 16.01.2017 had discussed and made recommendations regarding administrative division of taxpayers and concomitant issues. The recommendation in relation to cross-empowerment of both tax authorities for enforcement of intelligence based action is recorded at para 28 of Agenda note no. 3 in the minutes of the meeting which reads as follows:-

***viii. Both the Central and State tax administrations shall have the power to take intelligence based enforcement action in respect of the entire value chain “***

Accordingly it has been clarified that the officers of both Central tax and State tax are authorized to initiate intelligence based enforcement action on the entire taxpayer's base irrespective of the administrative assignment of the taxpayer to any authority.

The authority which initiates such action is empowered to complete the entire process of investigation, issuance of Show Cause Notice (SCN), adjudication, recovery, filing of appeal etc. arising out of such action.

In other words, 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 conclusion.

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.

It has been further clarified that GSTN is already making changes in the IT system in this regard.

**2.4.2.1 Judicial Observations– different Officers appointed under Sections 3 & 6 of CGST Act, 2017 are independently investigating altogether different matters, in accordance with law, without any overlapping. - the investigations being conducted by competent Officers against the petitioner are not hit by provisions of Section 6(2)(b) of CGST Act, 2017.**

The petitioner has filed this petition seeking quashing of summons dated 8.12.2020 (Annexure P-14) by way of writ of Certiorari and further to restrain Respondent No.1-Additional Director General, Ludhiana Zonal Unit, Directorate General of GST Intelligence from carrying out further investigation against him. - different Officers appointed under Sections 3 & 6 of CGST Act, 2017 are independently investigating altogether different matters, in accordance with law, without any overlapping. Moreover, the abovesaid alleged contraventions are prima facie cognizable and punitive in nature under CGST Act, 2017.

Held: We are of the view that the investigations being conducted by competent Officers against the petitioner are not hit by provisions of Section 6(2)(b) of CGST Act, 2017. So, we see no

reason to interfere with the aforesaid investigations undertaken by the competent authorities against the petitioner under CGST Act, 2017. Consequently, the writ petition is hereby dismissed having no merits. Ref: Kaushal Kumar Mishra v Additional Director General, Ludhiana Zonal Unit and another - HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH - CWP-21387-2020 (O&M) - [HC-GW-41-2021-PJ](#)

**2.4.2.2 Judicial Observations– As per section 6(2)(b) when a proceeding has been initiated by Central authorities, State cannot step into same, hence, summons issued by State GST, prima facie, in violation of section 6(2)(b) were to be stayed.**

The petitioners submits that the proceedings were pending under the CGST Act and therefore, no proceedings could have been initiated by the State GST. He relies on Sub-Section 2(b) of Section 6 of the West Bengal GST Act to indicate that when a proceeding has been initiated by the Central authorities, the State cannot step into the same.

Held: The summons that have been issued on October 19, 2020 by the State GST is, *prima facie*, in violation of Section 6(2)(b) of the WBGST Act. Accordingly, I direct stay of the above summons and any proceedings thereunder. Ref: Raj Metal Industries & Anr. Vs. Union of India & Ors. - THE HIGH COURT AT CALCUTTA - W.P.A. 1629 OF 2021 - [HC-GW-382-2021-WB](#)

**2.4.2.3 Judicial Observations– Where Competent Authority under Central Goods and Services Tax Act as well as Competent Authority under Gujarat Goods and Services Tax Act separately commenced investigations against assessee on same subject matter and assessee filed writ petition contending that there could not be two parallel investigations under CGST Act and SGST Act, notice required to be issued on GST Authorities.**

where a proper officer under Central Goods and Services Tax Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by the proper officer under that Act on the same subject matter. Reference was made to section 6 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the CGST Act"), to point out that clause (b) of sub-section (2) thereof is similarly worded and provides that 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 that Act on the same subject matter.

D.O.F. No.CBEC/20/43/01/2017-GST (Pt.) dated 5.10.2018 issued by the Central Board of Indirect Taxes and Customs clarifies 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 the Central tax authority would not transfer the said case to its State tax counterpart and would themselves take the case to its logical conclusions.

investigation has been commenced by the officers under the CGST Act. It was pointed out that the authorities under the SGST Act have issued summons to the petitioner under section 70(1) of the Goods and Services Tax Acts dated 29.8.2019 followed by another summons dated 5.12.2019. It was pointed that in the statement of the petitioner recorded by the State authorities, question No.6 put to the petitioner was as to what was the status of the search carried out at the petitioner's business premises by the CGST Department and the second

question was as to which books of accounts had been seized by the CGST Department, in answer to which, the petitioner had replied that all their account books and other record of their business have been seized by the CGST Department. It was submitted that, therefore, the authorities under the SGST Act are well aware that the authorities under the CGST Act are investigating the matter. It was submitted that there cannot be two parallel investigations under the State Act as well as the Central Act.

Held: By way of ad-interim relief, the respondents are restrained from taking any coercive action against the petitioner pursuant to the impugned inquiry proceedings. Ref: Sureshbhai Gadhecha v. State of Gujarat - HIGH COURT OF GUJARAT AT AHMEDABAD - R/SPECIAL CIVIL APPLICATION NO. 23279 of 2019 - [HC-GW-436-2019-GJ](#)

**2.4.2.4 Judicial Observations– The petitioner has already filed the appeals against the main orders of assessment before the appellate authority, which are still pending, the respondent No.2 could not have initiated the parallel proceedings for recovery of the interest on delayed payment of tax, as the proper officer under the State Act i.e. MPGST Act has already assumed the jurisdiction.**

In the present case, the respondent No.6 - State Tax Officer, SGST, Circle Rewa, Rewa (M.P.) has already initiated the proceedings for recovery of interest on delayed payment under Section 50 of the Madhya Pradesh Goods and Services Tax Act, 2017 (in short "MPGST Act") vide two orders dated 25.05.2019 (Annexure P-10 & Annexure P-11). The petitioner has filed two separate appeals against the said orders before the Joint Commissioner, State Tax (Appeals) Rewa, Satna (M.P. ) but during pendency of the said two appeals, the respondent No.2 - Joint Director, Directorate General of GST Intelligence, Bhopal has issued the impugned show cause notice dated 21.07.2020 (Annexure P-22) under Section 73(1) of the Central Goods and Services Tax Act, 2017 (in short "CGST Act") covering the same period for the same amount of interest on the delayed payment.

The petitioner has already filed the appeals against the main orders of assessment before the appellate authority, which are still pending, the respondent No.2 could not have initiated the parallel proceedings for recovery of the interest on delayed payment of tax, as the proper officer under the State Act i.e. MPGST Act has already assumed the jurisdiction. - the petitioner has already filed reply to the show cause notice but no decision has been taken by the respondent No.2 on that reply.

**Held:** if the petitioner has not already filed reply to the show cause notice, it would be open for the petitioner to file reply to the impugned show cause notice raising the aforesaid objection. We direct that the respondent No.2, before proceeding further on the impugned show cause notice, shall first deal with and decide the aforesaid objection of the petitioner in accordance with law. Ref: (JAIPRAKASH ASSOCIATES LTD. REGISTERED COM. Vs UNION OF INDIA MINISTRY OF FINANCE AND OTHERS) - THE HIGH COURT OF MADHYA PRADESH AT JABALPUR - WP-1414-2021 - [HC-GW-51-2021-MP](#)

**2.4.2.5 Judicial Observations– The petitioner submitted reply to the show cause notice but did not raise any objection as to the jurisdiction on the ground of assignment of the case to Central Officer. - Had the petitioner objected to it at the initial stage or during the course of assessment proceedings, the position could have been rectified by the**

**respondent no. 4 by informing the central officer to complete the 14 assessment proceedings.**

As per division of work the case for the tax period 2017-18 (July, 2017 to March, 2018) was assigned to the Officer of Central Tax (hereinafter referred to as 'the Central Officer') but the show cause notice dated 25.6.2021 for assessment under section 73 of CGST Act/UPGST Act was issued by the Officer of the State Tax (hereinafter referred to as 'the State Officer') i.e. Dy. Commissioner, Commercial Tax Saharanpur, Sector 10, Saharanpur (B), Uttar Pradesh.

The petitioner submitted reply to the show cause notice but did not raise any objection as to the jurisdiction on the ground of assignment of the case to Central Officer. The proper officer under the Act completed the assessment proceedings and passed the assessment order under section 73 of the UPGST Act/CGST Act dated 9.8.2021 for the tax period July, 2017 to March, 2018.

Aggrieved the aforesaid assessment order dated 9.8.2021 the petitioner has filed the present writ petition praying to quash the show cause notice (DRC-01) dated 25.6.2021 issued by the State Officer i.e. the respondent no. 4 and the assessment order dated 9.8.2021 passed by the respondent no. 4.

Finding: It is not a case that the state officer i.e. the respondent no. 4 lacks inherent jurisdiction but it is a case where the jurisdiction has been exercised by the respondent no. 4 in the absence of any objection or pointing out by the petitioner that the case has been assigned to a central officer. The jurisdiction upon a proper officer has been conferred by section 6 of the Act. Thus a proper officer has jurisdiction over the assesseees for assessment falling under his territorial jurisdiction but in terms of the aforesaid work allotment order No. 04/2021 dated 12.9.2018 he was to take up those cases which have been allotted to him.

Held: We find that the impugned show cause notice and the impugned assessment order do not suffer from any inherent lack of jurisdiction and instead it is the result of contributory error of jurisdiction by the respondent no. 4., in the circumstances that the petitioner submitted to the jurisdiction of the respondent no. 4 without informing or without raising objection as to the assignment of the case to the central officer and after well participating in the assessment proceedings allowed the assessment order to be passed by the respondent no. 4. Had the petitioner objected to it at the initial stage or during the course of assessment proceedings, the position could have been rectified by the respondent no. 4 by informing the central officer to complete the 14 assessment proceedings.

The writ petition is dismissed leaving it open for the assessee-petitioner to challenge the impugned assessment order in appeal under section 107 of the CGST/UPGST Act. Ref: Ajay Verma vs Union Of India And 5 Others – High Court of Allahabad - WRIT TAX No. - 1169 of 2021 - [HC-GW-249-2022-UP](#)

**2.4.2.6 Judicial Observations– The summons have been issued without jurisdiction, inasmuch as inquiry for the same period, i.e., financial year 2017-2018, was carried out by the State Tax authority; whereupon after receipt of a reply from the petitioner, the same was closed. - the respondent have withdrawn and closed the inquiry proceedings initiated against the petitioner.**



The summons have been issued without jurisdiction, inasmuch as inquiry for the same period, i.e., financial year 2017-2018, was carried out by the State Tax authority; whereupon after receipt of a reply from the petitioner, the same was closed.

Finding: We are of the view that the petitioner has made out a prima facie case for wrongful assumption of jurisdiction.

Held: There will be a stay on further proceedings, which respondent nos. 2 and 3 may intend to carry out, pursuant to the impugned summons dated 30.03.2021.

Later, the respondent have withdrawn and closed the inquiry proceedings initiated against the petitioner vide Impugned Summons dated 30.03.2021, quoting -

“Para 13.....In fact, this office has confirmed this fact from state GST authority and State GST authority vide e-mail dated 18.05.2021 informed & confirmed deposition of above referred amount, so this office has withdrawn and closed the inquiry proceeding initiated vide summons dated 30.03.2021. This has been communicated to the party vide this office even numbered letter 7299 dated 20.05.2021.”

Final Order: this Court is of the view that as the Impugned Summons have been withdrawn and the inquiry proceedings have been closed, the issue sought to be adjudicated upon by the petitioner cannot be decided in a vacuum. Consequently the present writ petition and application are disposed of leaving the aforesaid question of law open to be decided in the event a fresh proceeding is initiated or summons are issued to the petitioner by the Central Tax Officers (GST Officers). Ref: KOENIG SOLUTIONS PRIVATE LIMITED vs UNION OF INDIA & ORS. - HIGH COURT OF DELHI AT NEW DELHI - W.P.(C) 5040/2021 & CM APPL. 15429/2021 - [HC-GW-426-2021-DL](#)

**2.4.2.7 Judicial Observations– is the issuance of multiple summons to the petitioner(s) by multiple agencies is violative of the mandate of Section 6(2)(b) of the CGST Act and as also the Circular dated 05.10.2018 issued by the CBEC ?**

Petitioner: Issuance of such multiple summons to the petitioner(s) by multiple agencies is violative of the mandate of Section 6(2)(b) of the CGST Act and as also the Circular dated 05.10.2018 issued by the CBEC.

It is only the jurisdictional Commissionerate that has the jurisdiction to carry out the entire process of investigation, including the issuance of Show Cause Notices, adjudications, recovery, et cetera.

Respondents: The all-India jurisdiction can be exercised only by a “proper officer” appointed as a Central Tax Officer under Notification No. 14 of 2017 and no one else. He submits that, therefore, once the proceedings have a PAN India influence and involvement of more than one Commissionerate, it is only the Central Tax Officers having all-India jurisdiction, in terms of the Notification No. 14 of 2017, who are empowered to carry out the investigation.

Findings: We find that the investigations were initiated by various jurisdictional authorities against different entities. As contended by the respondents, as common thread were allegedly found in these investigations, the same have been transferred to DGGI, AZU to be brought under one umbrella. We also find that in the CGST Act there is no prohibition to such transfer. Section 6(2)(b) of the CGST Act has limited application and therefore, is not applicable to the

facts of the present petitions. Similarly, the Circular dated 05.10.2018 also has no application to the facts of the present petitions.

Held: we find no merit in the present writ petitions. The same are accordingly dismissed. Ref: INDO INTERNATIONAL TOBACCO LTD vs SHRI VIVEK PRASAD, ADDITIONAL DIRECTOR GENERAL, DGGI & ORS. - HIGH COURT OF DELHI AT NEW DELHI - CONT.CAS(C) 751/2021 & CM No.35806/2021 - [HC-GW-21-2022-DL](#)

**2.4.2.8 Judicial Observations– There is no proceeding by a proper officer against the petitioner on the same subject-matter referable to Section 6(2)(b) of the U.P.G.S.T. Act. It is merely an inquiry by a proper officer under Section 70 of the C.G.S.T. Act.**

**Facts:** The respondent no.5 has inspected the business premises of the petitioner on 30.05.2018, which was followed by a summon dated 02.06.2018 under Section 70 of the U.P. GST Act. Lastly, a summon dated 14.09.2020 was issued by the respondent no.5- Assistant Commissioner (SIB), Commercial Tax, Range-C, Ghaziabad under Section 70 of U.P. GST Act, requiring the petitioner to explain two input tax credit taken by him.

After the aforesaid summon dated 02.06.2018 issued by the respondent no.5, the respondent no.4 has issued summon dated 24.07.2019 under Section 70(1) of CGST Act, 2017, requiring the petitioner to tender his statement in the inquiry. The aforesaid summon was followed by summons dated 26.08.2019 and 26.08.2020.

Once inquiry has been initiated by the respondent no.5 under U.P. GST Act, the respondent nos. 3 and 4 cannot initiate any proceeding in view of the provisions of Section 6 (2) (b) of U.P. GST Act, 2017.

Since inquiry has already been initiated by the respondent no.5, therefore, the respondent nos. 3 and 4 cannot initiate any inquiry against the petitioner in view of the provisions of Section 6(2)(b) of U.P. GST Act, 2017.

**Conclusion:** The word “inquiry” in Section 70 has a special connotation and a specific purpose to summon any person whose attendance may be considered necessary by the proper officer either to give evidence or to produce a document or any other thing. It cannot be intermixed with some statutory steps which may precede or may ensue upon the making of the inquiry or conclusion of inquiry. The process of inquiry under Section 70 is specific and unified by the very purpose for which provisions of Chapter XIV of the Act confers power upon the proper officer to hold inquiry. The word “inquiry” in Section 70 is not synonymous with the word “proceedings”, in Section 6(2)(b) of the U.P.G.S.T. Act/ C.G.S.T. Act.

The words “any proceeding” on the same “subject-matter” used in Section 6(2)(b) of the Act, which is subject to conditions specified in the notification issued under sub-Section (1); means any proceeding on the same cause of action and for the same dispute involving some adjudication proceedings which may include assessment proceedings, proceedings for penalties etc., proceedings for demands and recovery under Section 73 and 74 etc.

Section 6(2)(b) of the C.G.S.T. Act prohibits a proper officer under the Act to initiate any proceeding on a subject-matter where on the same subject-matter proceeding by a proper officer under the U.P.G.S.T. Act has been initiated.

Facts briefly noted in paras-6 and 7 above, would disclose that there is no proceeding by a proper officer against the petitioner on the same subject-matter referable to Section 6(2)(b) of



the U.P.G.S.T. Act. It is merely an inquiry by a proper officer under Section 70 of the C.G.S.T. Act.

**Held:** For all the reasons afore-stated, we do not find any merit in the present writ petition. Consequently, the writ petition fails and is hereby dismissed. Ref: G.K.Trading Company vs Union Of India And 4 Others - THE HIGH COURT OF UTTAR PRADESH AT ALLAHABAD - WRIT TAX No. - 666 of 2020 - [HC-GW-881-2020-UP](#)

**2.4.2.9 Judicial Observations– There is a clear distinction between a proceeding drawn for the demand of tax evaded by the petitioner-establishment and the investigation be conducted by the Department of the DG, GST Intelligence Wings in respect of an offence committed by an establishment by way of using bogus and fake invoices and illegally availing ITCs, which the petitioner-establishment otherwise was ineligible.**

**Petitioner:** Once when a show cause notice proceeding initiated by the respondents dated 14.11.2019 is pending before the concerned authorities under the CGSGST, the respondents could not have issued or initiated another investigation or proceeding in-respect of the same subject matter, which otherwise is not permissible under the provisions of Section 6(2)(1)(b).

Once the matter ceased by the officers of the CGSGST Act, 2017, the same cannot be simultaneously put to another investigation by the officers appointed under section 3 of the CGSGST Act, 2017 in view of the express bar under section 6(2)(b). According to the counsel for the petitioner, the subject matter in both the proceedings is in-respect-of the alleged use of fake and fictitious invoices. Thus, the entire subsequent investigation and the proceedings drawn deserves to be quashed.

**Respondents:** the nature of offence now being investigated is entirely different than the proceedings drawn in the show cause notice or the proceedings pending before the State Authorities are concerned, it would not be hit by the provisions of Section 6(2)(1)(b). According to the counsel for the respondents No.2 to 4, the present investigation is more in respect of the defrauding of the government revenue committed by the petitioner in contravention to the provisions of the CGST Act and the nature of offence committed by the petitioner is one which false under the provisions of Section 132(1)(i) and in view of the provision of Section 132(5) of the said Act, the offence is also a cognizable offence and is a non-bailable offence as well. Thus, prayed for the rejection of the writ petition.

**Held:** This Court does not find any substance in the arguments of the petitioner, when they say that the investigation and the proceedings now initiated is one, which hit by Section 6(2)(1)(b) of the CGST Act of 2017. What has also to be appreciated is the fact that there is a clear distinction between a proceeding drawn for the demand of tax evaded by the petitioner-establishment and the investigation be conducted by the Department of the DG, GST Intelligence Wings in respect of an offence committed by an establishment by way of using bogus and fake invoices and illegally availing ITCs, which the petitioner-establishment otherwise was ineligible.

So far as the judgments referred to by the petitioner in support of his contention what cannot be lost sight of is the fact that those judgments were rendered under entirely different contextual background as compared to the factual matrix in the present case and the ratio laid down in those judgments are also not what could be applied at this juncture. Even the judgments of the Division Bench of this Court referred to by the petitioner-establishment again

is one, which has been decided in an entirely different contextual background as compared to the facts of the present case and those judgments are distinguishable on facts itself.

The writ petition thus fails and is accordingly rejected. Ref: Dadhichi Iron And Steel Pvt. Ltd. vs Chhattisgarh G S T and others - HIGH COURT OF CHHATTISGARH AT BILASPUR - WPT No. 42 of 2020 - [HC-GW-317-2020-CHT](#)

**2.4.2.10 Judicial Observations– There is a clear distinction between a proceeding drawn for the demand of tax evaded by the petitioner-establishment and the investigation be conducted by the Department of the DG, GST Intelligence Wings in respect of an offence committed by an establishment by way of using bogus and fake invoices and illegally availing ITCs, which the petitioner-establishment otherwise was ineligible.**

Facts: Notice for intimating discrepancies in the return after some scrutiny, was issued by the State authorities to the petitioner on 17.12.2020 and the proceedings are in progress. While so, Central authorities are bound to wait till the conclusion of the proceedings initiated by the State officials under the State Goods and Services Tax Act and thus, the summons issued by the respondent is without jurisdiction.

Held: The very purpose and object of Section 6(2) (b) of the Act is to ensure that on the same subject, the parallel proceedings are to be avoided. Once on a particular subject, the State authority has initiated action under the State Goods and Services Tax Act, then alone, the proper answer under the Central Goods and Services Tax Act are restrained to wait till the finalization of the proceedings initiated by the State authorities. However, in all circumstances, and in respect of various other proceedings, the benefit cannot be claimed by the assesseees.

It is to be established that subject matter is one and the same. Mere pendency of proceedings before the State authorities is not a ground to restrain the Central authorities from issuing summons and conduct investigation regarding certain allegations. Therefore, all these factors require an adjudication before the competent authority and if the summons are kept in abeyance at this stage, the same would paralyze the entire proceedings, which is not only desirable, but would cause prejudice to the interest of the Revenue in the present case.

The petitioner is at liberty to respond to the summons by producing all relevant documents, evidences, statements, etc., and defend his case in the manner known to law. The respondent is also at liberty to proceed with the investigation by following the procedures as contemplated under the Statute and Rules.

The writ petition stands dismissed.

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