



Jurisdiction of State and Centre Authority over simultaneous action

The 101st Constitutional Amendment, was aimed to achieve “one nation one tax”, however, due to the constitution of dual authorities at the Union and State level has caused the conundrum pertaining to the jurisdiction over the concurrent matters or having authority for simultaneous actions by both the authorities.

Understanding the need for resolution of the jurisdictional dispute, the Central Board of Excise & Customs, Department of Revenue, Ministry of Finance, Government of India vide D.O.F. No. CBEC/20/43/01/2017-GST (Pt.) dated 05.10.2018, has clarified that:

"3. It is accordingly 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 SCN, adjudication, recovery, filing of appeal etc. arising out of such action.

4. 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 conclusions.

5. 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."

Thenceforth, the clarification abundantly clears the ambiguity pertaining to the jurisdiction over the initiation of proceeding and logically ending the same in cases of simultaneous actions by Central and State investigating agencies.

In spite of the departmental clarification, the assessee still have to face the wrath of the non-cooperation of the departments investigating simultaneously. Recently, a similar matter was decided by the Hon'ble High Court of Orissa, in **Sonam Berlia v State of Orissa**¹ wherein the

¹ 2021 (51) G.S.T.L. 25 (Ori).



during the ongoing investigations by the central investigating agencies under the provisions of the Act was called by the state investigating agencies through show-cause notice, thereafter, an order was passed against the assessee even though the assessee has informed the state authorities of the pending investigation by the central authorities. On account of arbitrariness in actions by the state authorities, the assessee preferred a writ petition before the jurisdictional high court.

The Hon'ble High Court on accessing the facts and the departmental clarification in this regard, quashed the show-cause notice and impugned orders and direct the state authorities from undertaking any coercive actions against the petitioner/assessee, till the conclusion of the proceeding initiated by the central authorities.

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