



GST Demand not Supersede Pending Investigation: Telangana HC

In this case, the tax authorities based on preliminary investigation ascertained unpaid tax on account of wrongly availed input tax credit by the petitioner. In pursuance of investigation, summons were issued to the Director of the petitioner under Section 70 of the Central Goods and Services Tax Act, 2017. On account to investigation, the petitioner deposited Rs. 35 lacs to the authorities. Due to the coercion of the authorities by repeated notices, the petitioner preferred a petition before the Hon'ble Court.

The counsel for the petitioner contended that the conduct of respondents directing to remittance of the alleged due at the stage of summons issuance violates the due procedure as prescribed under Section 74 of the Act.

The learned division bench of the Hon'ble Telangana High Court comprising of Hon'ble Mr. Justice Rama Chandra Rao and Hon'ble Mr. Justice T. Vinod Kumar, held that since investigation is pending, hence collections of unpaid tax without determination of the liability in an enquiry is arbitrary and lacks jurisdiction and therefore, no tax demand can be issued or raised when the investigation is in progress. The Hon'ble Court directed the authorities to refund Rs. 35 lacs at 7% p.a. from the date of payment till the date of refund. The Hon'ble Court further clarified, the respondents can proceed with the due investigation and enquiry within the provisions of the Act, against the petitioner.

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