

## **Navigating the GST Maze: Supreme Court Clarifies Bar on Parallel Proceedings**

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### **Introduction:**

In a landmark ruling that brings much-needed clarity to India's Goods and Services Tax (GST) regime, the Supreme Court has authoritatively interpreted the crucial anti-harassment provision of **Section 6(2)(b)** of the CGST Act, 2017. The case of **Armour Security (India) Ltd. vs. Commissioner, CGST Delhi East Commissionerate** (2025) 33 Centax 222 (S.C.) in the Supreme Court of India settles a long-standing debate on when and how a taxpayer can be shielded from simultaneous investigations and proceedings by both Central and State tax authorities.

The dispute emerged from a classic scenario: a company was served a Show Cause Notice (SCN) by the State GST authority on a specific issue, only to later face summons and a search from the Central GST authority on a seemingly overlapping matter. The taxpayer cried foul, invoking Section 6(2)(b) to argue that the second action was barred by law. The relevant extract of the clause (b) of sub-section(2) of section 6 is *“(b) where a proper officer under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act has **initiated any proceedings** on a **subject matter, no proceedings shall be initiated** by the proper officer under this Act **on the same subject matter**”*. The Delhi High Court's dismissal of this plea led to an appeal, setting the stage for the Supreme Court to lay down the law.

Before this verdict, a cleavage of opinion existed across India's High Courts, creating uncertainty for taxpayers and authorities alike. The Supreme Court's judgment serves to reconcile these conflicting views.

### **The Legal Conflict: Divergent Views from the High Courts:**

#### **The "Against" View: Summons as Proceedings (Favouring the Taxpayer)**

Several High Courts had taken a broader view, holding that any coercive action, including summons, could trigger the bar under Section 6(2)(b) if the subject matter was the same.

- **High Court of Orissa in Anurag Suri v. DGGSIT — [2021] 128 taxmann.com 48/88 GST 632 (Orissa):** Quashed a State SCN because the Central authority (DGGI) was already investigating the same period. The Court

held that the circular dated 05.10.2018 precluded State authorities from proceeding as long as the Centre was "seized of the matter."

- **High Court of Jharkhand in Vivek Narsaria v. State of Jharkhand — 2024 (82) G.S.T.L. 251/(2024) 14 Centax 283 (Jhar.):** Held that a "chain of events" under the Act meant that any enquiry or investigation by one authority should preclude another. It directed the State authority to continue proceedings as its search action was "prior in point of time."
- **High Court of Punjab & Haryana in Stalwart Alloys India Pvt. Ltd. v. Union of India — 2024 SCC OnLine Punj & Har 15153:** Took a strict view, stating that the word "subject matter" meant the "nature of proceedings." Therefore, if the State initiated proceedings for wrongful ITC availment for one period, the DGGI could not initiate for a later period, as the nature was the same.
- **High Court of Himachal Pradesh in Kundlas Loh Udyog v. State of H.P. — (2024) 22 Centax 455 (H.P.):** Echoed the Punjab & Haryana view, interpreting "subject matter" as the "nature of proceedings" and holding that once the State acts on an issue, the Centre is barred from acting on the same.

#### **The "For" View: Summons are not Proceedings (Favouring the Revenue)**

Other High Courts drew a clear distinction between investigation and adjudication, ruling that the bar applies only after the issuance of an SCN.

- **Allahabad High Court in G.K.Trading Company v. Union of India — 2021 (51) G.S.T.L. 288 (All.):** Provided a seminal distinction, holding that an "inquiry" u/s 70 is not synonymous with "proceedings" u/s 6(2)(b). The court clarified that proceedings include actions like assessment and demand (initiated via SCN), while summons are merely a step in the inquiry process.
- **Madras High Court in Kuppan Gounder P.G. Natarajan v. Directorate General of GST Intelligence — 2021 (55) G.S.T.L. 420 (Mad.):** Held that the scope of Sections 6(2)(b) and 70 are "different and distinct." The words "proceedings" and "inquiry" cannot be mixed to create a bar on the power to summon.
- **Kerala High Court in K.T. Saidalavi v. State Tax Officer, SGST Department — (2024) 25 Centax 42 (Ker.):** Explicitly held that the initiation of an enquiry or issuance of summons u/s 70 cannot be deemed "initiation of proceedings," which is a reference to the issuance of a notice.
- **Rajasthan High Court in Rais Khan v. Addl. Commissioner, Enforcement Wing-II — 2024 (83) G.S.T.L. 225/(2024) 16 Centax 359 (Raj.):** Relied on

the Allahabad and Madras decisions to dismiss a writ petition, holding that the issuance of summons u/s 70 is not hit by the bar under Section 6(2)(b).

- **Delhi High Court in Indo International Tobacco Ltd. v. Vivek Prasad, Additional Director General (DGGI) — 2022 (67) G.S.T.L. 403/(2022) 1 Centax 142 (Del.):** Introduced nuance, stating that Section 6 and the circulars are not intended to cover situations where an investigation has pan-India implications involving multiple taxpayers, as restricting it to territorial jurisdiction would lead to an incomplete investigation.

### **The Supreme Court's Synthesis: A Landmark Summary**

The Supreme Court, in a detailed judgment, affirmed the Delhi High Court's decision and dismissed the appeal. It effectively endorsed the line of reasoning taken by the Allahabad, Madras, Kerala, and Rajasthan High Courts, while clarifying the contrary views.

### **Decoding "Proceedings" and "Subject Matter"**

The Court's analysis revolved around dissecting two pivotal phrases in Section 6(2)(b): "**initiation of any proceedings**" and "**same subject matter**."

- **The "Initiation of Proceedings" is the Issuance of a Show Cause Notice**

The Court drew a clear line between **investigation** and **adjudication**.

- **Investigation (No Bar):** Actions such as issuing **summons (u/s 70)**, conducting **searches (u/s 67)**, and making **seizures** are merely evidence-gathering exercises. They are precursors to formal proceedings and **do not** qualify as "initiation of proceedings" under Section 6(2)(b). The authorities are well within their rights to conduct such intelligence-based inquiries, regardless of which administration the taxpayer is assigned to.
- **Adjudication (Bar Applies):** The bar is triggered only at the stage of **formal adjudication**, which commences with the **issuance of a Show Cause Notice (SCN)** under sections like 73 or 74. The SCN is the foundation of the case against the taxpayer, outlining the charges, the legal provisions violated, and the demand amount. It is at this point that the "proceedings" are deemed to have begun.
- **The "Subject Matter" is Defined by the Show Cause Notice**  
The Court provided a precise definition of "subject matter," tying it directly to the contents of the SCN.

- It refers to the specific **tax liability, deficiency, or obligation** arising from a **particular contravention** alleged by the department.
- The bar against parallel proceedings is attracted **only if two SCNs seek to recover an identical or overlapping liability from the very same contravention.**
- The Court established a **two-fold test** to determine if the subject matter is the same:
  - a) Is the authority proceeding on an **identical tax liability or alleged offence** based on the **same facts**?
  - b) Is the **demand or relief sought** identical?
- Crucially, the Court held that proceedings concerning **distinct infractions** (e.g., different financial years, different sets of fake invoices, different suppliers) do **not** constitute the "same subject matter," even if the nature of the alleged offence (e.g., availing fake ITC) is similar.
- **Reaffirming the GST Architecture: Single Interface & Cross-Empowerment**

The judgment reaffirmed the dual pillars of GST administration:

- **Single Interface:** For everyday administrative functions like registration, return scrutiny, and audit, a taxpayer is assigned to either the Central or State administration to avoid dual control and harassment.
- **Cross-Empowerment:** For **intelligence-based enforcement-actions** (stemming from specific evasion tips, not routine audits), both Central and State authorities are empowered to investigate any taxpayer, anywhere. The authority that initiates such action is empowered to see it through to its "logical conclusion", which may or may not culminate in an SCN.

### **Conclusion: A Balanced and Pragmatic Verdict**

The Supreme Court's verdict is a masterstroke in balancing the powers of the tax authorities with the rights of the taxpayers. It empowers officers to conduct unfettered investigations based on intelligence, which is vital for curbing evasion in a vast economy like India. Simultaneously, it protects taxpayers from the final, adversarial stage of adjudication being conducted by multiple authorities on the

exact same issue, which would be a clear violation of natural justice and legislative intent.

This judgment provides a clear, predictable, and legally sound framework for both the Department and industry to operate within, reducing unnecessary litigation and fostering a more stable business environment.

**For territorial jurisdiction of the jurisdictional officers vis-à-vis all India jurisdiction on intelligence-based proceedings:**

Jurisdiction of officers is at the core of implementing a taxing statute. It determines the authority and power under which the administration is working. It is the threshold issue in any proceeding. If the jurisdiction of the administration itself comes under question, all execution takes a back stage. Cross empowerment under a taxing statute is a novel concept. We see that Constitutional provisions introduced vide [101<sup>st</sup> Amendment](#) are silent on the issue of cross-empowerment. 9<sup>th</sup> GST Council meeting alluded to cross-empowerment, but actual mechanism is to be implemented through statutes. Provisions of the CGST/SGST/[IGST Acts](#) do contemplate cross empowerment. The back-drop of 11<sup>th</sup> GST Council meeting has not got the adequate attention. The CBIC has issued clarifications, but the Hon'ble Madras High Court in case of **Tvl Vardhan Infrastructure Vs Special Secretary 2024 (16) CENTAX 509 (Mad)** has relied on the proceedings of [22<sup>nd</sup> GST Council Meeting](#) and held that no notifications have been issued for cross-empowerment with advise of GST Council, except for the purpose of refund of tax under Chapter-XI of the respective GST Enactments r/w Chapter X of the respective GST Rules.

With regard to territorial jurisdiction of the jurisdictional officers vis-à-vis all India jurisdiction of DGGI, and the Hon'ble Delhi court held that since "intelligence based enforcement action" has repercussion or involvement of taxpayers beyond territorial jurisdictional limit of officer initiating such action and such action had a common thread or involvement of multiple taxpayers, and transfer of all investigations to DGGI, having pan-India jurisdiction was not prohibited. However, in this case, an SLP is pending in Hon'ble Supreme Court **M/S SSM EXPORTS VERSUS COMMISSIONER OF CENTRAL EXCISE AND SERVICE TAX AND CGST & ORS. - 2024 (9) TMI 169 - SC ORDER**. Hence, the final word in the matter seems some distant away.

## Way Forward Action Points for Professionals and Industry

This ruling has immediate and practical implications. Here's how to navigate the post-judgment landscape:

### For Professionals like CAs, Lawyers, Consultants:

- **Advise Unconditional Compliance with Summons:** Counsel clients that resisting summons from one authority merely because another is already investigating is no longer a viable strategy. Cooperation is mandatory.
- **Shift Focus to the Show Cause Notice:** The SCN is the new battlefield. Scrutinize every SCN with a fine-tooth comb. If a client receives a second SCN, immediately compare its contents with the first to determine if the "subject matter" is truly identical, using the Supreme Court's two-fold test.
- **Adopt Proactive and Strategic Communication:** If a client is facing inquiries from two authorities, proactively write to the second authority, formally informing them of the ongoing proceedings and enclosing relevant documents (e.g., the first SCN). Politely request them to liaise with the first authority to avoid duplication of effort.
- **Build Your Defense on This Precedent:** Use this judgment to robustly challenge any duplicate SCNs issued on an identical subject matter. Conversely, use it to defend the department's right to investigate until an SCN is issued.
- **Maintain a Centralized Audit Trail:** Implement a system to meticulously track all communications, notices, and SCNs from both Central and State authorities for every client.

### For Industry (Taxpayers & Businesses):

- **Do Not Panic at Multiple Inquiries:** Understand that investigations from different authorities are legal. Your duty is to comply and seek professional help to respond effectively.
- **Strengthen Internal Governance:** Ensure you're accounting and invoicing systems are robust to withstand scrutiny from any authority. A clean internal record is the best defence.
- **Establish a Clear Protocol:** Designate a team or officer responsible for handling all tax notices. Ensure every communication is logged, acknowledged, and escalated to your tax advisors immediately.

- **Leverage the GST Portal:** Regularly check the common portal for any SCNs or orders. This is often the first formal indication of adjudication proceedings being initiated against you.
- **Foster a Cooperative Stance:** While being vigilant about your rights, maintain a cooperative and transparent approach with tax authorities. This helps in building trust and can lead to a more efficient resolution of disputes.

**For the Tax Department (Central and State):**

- **Train Officers on the Distinction:** Conduct extensive training programs to ensure all field officers understand the critical distinction between investigation (summons, search) and proceedings (SCN). They must be confident that their investigative powers remain unfettered until an SCN is issued.
- **Implement Robust Internal Checks Before SCN Issuance:** Before issuing an SCN, the proper officer must mandatorily check the GST portal and internal systems to ensure that no other authority (Central or State) has already issued an SCN on the same subject matter (using the SC's two-fold test).
- **Develop a Standard Operating Procedure (SOP) for Inter-Departmental Communication: Establish clear channels and protocols for:**
  - **Verifying Claims:** When a taxpayer claims another authority is already investigating, the officer must immediately verify this with the said authority.
  - **Deciding Jurisdiction:** If an overlap in the intended *subject matter of an SCN* is found, departments must communicate to decide which one will proceed, and the other must transfer all evidence.
  - **Sharing Intelligence, Not Cases:** Focus on seamless intelligence sharing at the investigation stage to strengthen cases, avoiding duplication at the final adjudication stage.
  - **Heed the Supreme Court's Guidelines on Summons:** The Court endorsed the Guidelines on Issuance of Summons dated 17.08.2022. Summons must not be issued routinely for information available on the portal. They should be well-thought-out, specific, and not used for "roving inquiries."
  - **Leverage Technology for Transparency:** The IT infrastructure (GST Portal) must be upgraded to provide real-time visibility of issued

SCNs (not investigations) across administrations to practically enforce the bar under Section 6(2)(b).

The Armour Security judgment has provided the compass to navigate the complex cross-empowerment framework of GST. **For professionals and businesses alike, the message is clear: focus on the Show Cause Notice, because that is where the real action and protection begin.**

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