



# Lawgics

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Judgment No.: 178  
Dt.:24-09-2024



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## Judgment Deals With

**Section 6(2)(b) prohibits the initiation of parallel proceedings by State and Central authorities on the same subject matter.**

**Once a proceeding is initiated by State Tax Authority, the DGGI cannot initiate parallel proceedings on the same subject matter i.e. regarding the same supplier.**

<b>Section/Rule</b>	Section 70 & 83
<b>Authority</b>	Himachal Pradesh High Court
<b>Case Name</b>	M/s. Kundlas Loh Udyog Vs State Of H.P.
<b>Dated</b>	17 <sup>th</sup> September, 2024
<b>Citation</b>	CMPMO No. 273 of 2024

### Brief facts of the case:

On 14.02.2024, the petitioner was issued summons under Section 70 of the HP-GST/CGST Act, 2017 by Department and in the said summons the petitioner was asked to supply various documents to show the genuineness of the transactions with the suppliers. Under the said notice, the petitioner was asked to give the details of all the suppliers since September, 2021. The tax period for which the information was sought was between 01.04.2019 to 31.12.2023.

The petitioner submitted all the documents as sought for Department on 12.03.2024.

Thereafter, on 16.03.2024, the petitioner was issued summons by Director General of Goods and Service Tax Intelligence (DGGI) Haryana, regarding supplies made from the 5 suppliers.

However, DGGI without following mandatory procedure or affording an opportunity of hearing or any communication, proceeded to block the Input Tax Credit of the petitioner dated 16.05.2024 and the same popped up on the web portal of the petitioner on 20.05.2024 and the petitioner was shocked to see that the Input Tax Credit had been blocked for acts attributable to the suppliers.

Thus, the petitioner filed the instant petition.

**Contention of the Petitioner:**

The proceedings qua the 5 suppliers had already been initiated by Department in accordance with the summons dated 14.02.2024 and the petitioner accordingly on 20.03.2024 sent an e-mail communication to DGGI informing that the proceedings qua the named suppliers had already been initiated against the suppliers by Department and the documents qua the same had already been submitted to Department.

The object of Section 6(2)(b) of the Act is to avoid multiple proceedings by the Sales Tax Officer and Central Tax Officer on the same subject matter.

The Circular Circular dated 5.10.2018 itself has acknowledged that once the officer of the State authority has initiated action, it would be the proper officer who would then conduct further proceedings under the Act.

**Findings & Decision of the Court:**

To ensure that there are no multiple proceedings in regard of the central and the state officers being authorized as proper officers, Section 6(2)(b) of the Act provides that where a proper officer under the SGST Act and the UGST Act has initiated proceedings on a subject matter, the proper officer under the CGST Act would not initiate proceedings "on the same subject matter".

This provision of CGST is also mirrored by Section 6(2)(b) of the SGST Act and UGST Act as well. Thus, where a proper officer under the CGST Act had initiated proceedings on a subject matter, no proceedings would be initiated by proper officer authorized under the SGST Act or UGST Act on the same subject matter.

The object of Section 6(2)(b) of the Act is to ensure that cross empowerment of officers of Central Tax and State Tax do not result in the taxpayers being subjected to parallel proceedings.

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. So, 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. 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 would be an entirely different matter that if there would have been another firm which has also been found to be availing fraudulent ITC, then the central government authorities would not be precluded from taking action against that firm. The independent action against some other firms would not impede the proceedings already initiated by the State Tax Authorities. Any new information which the DGGI may have gathered related to fraudulent availment or passing on can always be informed to the authorities, who already conducting the investigation, inquiry and proceedings under Section 6(2) of the Act.

In the present case, it would thus, mean that for any proceedings initiated by Department on a subject matter, DGGI cannot be allowed to initiate proceedings. Such action, if allowed, would be contrary to the provisions contained in Section 6(2)(b) of the Act.

Thus, and the orders for Blocked Credit Ledger dated 16.05.2024, popped up on the online web portal on 20.05.2024, passed by DGGI and the summons dated 16.03.2024 issued by DGGI, were set aside.