

[2024] 161 taxmann.com 654 (TELANGANA)/[2024] 103 GST 626  
(TELANGANA)/[2024] 85 GSTL 314 (TELANGANA)[21-03-2024]

**GST : Where for same cause of action, Central Authority had already initiated action and had passed an Order-in-Original, State Authorities could not initiate fresh proceedings**

■ ■ ■

[2024] 161 taxmann.com 654 (TELANGANA)

HIGH COURT OF TELANGANA

Dott Services Ltd.

v.

State of Telangana\*

P. SAM KOSHY AND N. TUKARAMJI, JJ.

W.P. NO. 5886 OF 2024

MARCH 21, 2024

**State/ UT GST Officers - Authorisation of - Issue drawn by Central Authority - Period July 2017 to March, 2018 - Subsequent demand by state authority on same issue - Petitioner- assessee assailed demand order on ground that impugned action being bad for reason that for same cause of action, Central Authority had already initiated action and had passed order in original - It was further submitted that order passed by central authority was already under challenge before Instant court where an interim order was granted - HELD : Once proceedings had been already been drawn and finalized on same set of facts and issue, there could not be subsequent proceedings again drawn - Correspondence made by petitioner would show that petitioner had in fact intimated respondent authorities time and again - Further, Order-in-Original passed by respondent No. 4 - Central authority was endorsed to State agencies which was sufficient to draw an inference that State Authorities were aware or atleast were informed about proceedings drawn by respondent No. 4 - Impugned demand order passed by state authority was to be quashed [Section 6 of Central Goods and Services Tax Act, 2017/Telangana Goods and Services Tax Act, 2017] [Paras 8 and 9] [In favour of assessee]**

**Circulars and Notifications : Circular No. 4/2023-GST, dated 23-11-2023**

**Kailash Nath P.S.S. Ld. Counsel for the petitioner . Swaroop Oorilla, Ld. Special Govt Pleader for the Respondent.**

## **ORDER**

**P.Samkoshy, J. -** Heard Mr.Kailash Nath P.S.S., learned counsel for the petitioner; Mr.Swaroop Oorilla, learned Special Government Pleader for State Tax appearing for respondent Nos.1 to 3 and Mr.Dominic Fernandez, learned Senior Standing Counsel for CBIC, for respondent No.4. Perused the entire record.

**2.** The challenge in the present writ petition is to the Demand Order DRC-07, dated 30.12.2023, for the tax period July, 2017 to March, 2018 under the Telangana Goods and Services Tax Act, 2017 ('TGST Act') and Central Goods and Services Tax Act, 2017 ('CGST Act').

**3.** One of the primary contentions raised by the petitioner in assailing the Demand Order is on the ground that the impugned action being bad for the reason that for the same cause of action, the Central Authority *i.e.*, respondent No.4 has already initiated action and has passed the Order-in-Original on 31.10.2023. It has also

been informed that the order passed by respondent No.4 is already under challenge before this Court in W.P.No.1357 of 2024 and where there is also an interim order granted by this very Bench on 12.01.2024. In view of the aforesaid developments, learned counsel for the petitioner submits that under the provisions of Section 6 of CGST Act, the Demand Order now been issued by respondent No.2 is per se bad, illegal and unsustainable.

4. On the previous date of hearing, we have directed the State counsel to seek instructions as to how the subsequent proceedings by the State Authorities would be maintainable.

5. Today, learned Special Government Pleader for State Tax enters appearance and makes his submission that there appears to be lack of information to the State Authorities being provided from the petitioner side in respect of the Order-in-Original passed by respondent No.4. He further submits that there also appears to be no timely information provided by the petitioner in respect of the order passed by respondent No.4 before the impugned order was passed. Therefore, the impugned order has been passed.

6. It was also the contention of the learned State counsel that the Central Government has issued a Circular dated 23.11.2023 vide Circular No.4 of 2023, which mandates that the orders passed in original have to be uploaded electronically on the portal so far as legal enforceability is concerned. Learned counsel further contended that in the instant case, as the order has since been not uploaded, the action on the part of the State Authorities cannot be found fault with.

7. Considering the provisions of Section 6 of CGST Act, what is apparently evident is that once when the proceedings have already been drawn and finalized on the same set of facts and issue, there cannot be subsequent proceedings again drawn. Undisputedly, in the instant case, respondent No.4 had already initiated proceedings and had concluded the same by passing the Order-in-Original on 31.10.2023. The said order has also been assailed by the assessee before this Court in W.P.No.1357 of 2024 and there also appears to be an interim order granted by this Court on 12.01.2024.

8. Given the said facts and circumstances of the case and in the teeth of Section 6 of the CGST Act, we are of the considered opinion that the two grounds raised by the State Authorities would not be sustainable. Firstly, mere not uploading of the order passed by the Central Authorities does not by itself empowers the State agencies to again initiate the proceedings in which the Central Authority i.e., respondent No.4 has already initiated and passed an Order-in-Original. As regards the second ground raised by the learned State counsel that lack of proper and timely intimation by the petitioner, a correspondence made by the petitioner would show that the petitioner has in fact intimated the respondent authorities in this regard time and again. Moreover, from the pleadings itself, it reflects that the Order-in-Original passed by respondent No.4, dated 31.10.2023 was endorsed to the State agencies which is sufficient to draw an inference that the State Authorities were aware or atleast were informed about the proceedings drawn by respondent No.4.

9. In view thereof, we are of the considered opinion that the impugned Demand Order dated 30.12.2023 for the tax period July. 2017 to March, 2018 would not be sustainable and the same deserves to be and is accordingly set aside/quashed.

10. The Writ Petition to the aforesaid extent stands allowed.

Consequently, miscellaneous petitions pending, if any, shall stand closed. No order as to costs.

■ ■

---

\*In favour of assessee.