

GIB/UP/G.K. TRADING/02.12.2020/HC-194

High Court Category : GST ACT

State : Allahabad

Order No.: GIB/UP/G.K. TRADING/02.12.2020/HC-194

Name of Entry :

M/S G.K. TRADING COMPANY

Date : 02-12-2020

Breif Issue :

FACTS OF THE CASE:

In this case the Petitioner G. K. Trading Company is engaged in the trading of Iron Bars, Rods and Non-Alloy Steel etc. On May 30, 2018, a survey was conducted by the Deputy Commissioner, S.I.B. ("Respondent No. 1") at the business premises of the Petitioner in which no business activity was found. Consequently, a summon was issued to the Petitioner on June 2, 2018 requiring him to submit details of purchases and sales, list of buyers and sellers and certain other documents.

Another summon dated September 14, 2020 was issued by the Assistant Commissioner S.I.B. ("Respondent No. 2") to the Petitioner asking him to submit explanation with respect to certain Input Tax Credits availed by him including the ITC taken on the basis of invoices of M/s Glider Traders Private Ltd., whose registration was cancelled several months prior to the date of the alleged invoice.

Further, some inquiry was being conducted by the Directorate General of Goods and Services Tax Intelligence who issued summon dated July 24, 2019 to the Petitioner, requiring the Petitioner to appear in person, to tender statement in person, but the Petitioner did not respond to the same. Another summon dated August 26, 2019 was issued to the Petitioner by the Respondent No. 2 requiring the Petitioner to submit copies of invoices issued along with other documents since July, 2017 till date. However, the Petitioner did not submit any information. Therefore, once again a summon dated August 26, 2020 was issued to the Petitioner requiring him to tender statement, give evidence and produce copies of purchase and sales ledgers since July, 2017 till date. The Petitioner neither appeared before the Respondent No. 1 nor submitted any details and instead merely wrote a letter dated September 11, 2020 stating that detailed inquiry is being conducted by the Respondent No.2.

ISSUE OF THE CASE:

Whether inquiry can be initiated by State Tax Authorities i.e., DGGSTI, Meerut where inquiry

has already been initiated by the proper officer under CGST Act?

Decision of Advance Ruling Authority :

DECISION:

Noted that, the word “inquiry” in Section 70 has a special connotation and a specific purpose to summon any person whose attendance may be considered necessary by the proper officer either to give evidence or to produce a document or any other thing. It cannot be intermixed with some statutory steps which may precede or may ensue upon the making of the inquiry or conclusion of inquiry. The process of inquiry under Section 70 of the CGST Act is specific and unified by the very purpose for which provisions of Chapter XIV of the CGST Act confers power upon the proper officer to hold inquiry. The word “inquiry” in Section 70 is not synonymous with the word “proceedings”, in Section 6(2)(b) of the CGST Act.

Further noted that, the words “any proceeding” on the same “subject-matter” used in Section 6(2)(b) of the CGST Act, means any proceeding on the same cause of action and for the same dispute involving some adjudication proceedings which may include proceedings for assessment, penalties, demands and recovery under Section 73 and 74 of the CGST Act. Therefore, it prohibits a proper officer under the CGST Act to initiate any proceeding on the same subject-matter on which proceeding by a proper officer under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act has been initiated.

Observed that, proper officer may invoke power under Section 70 of the CGST Act in any inquiry. Prohibition of Section 6(2)(b) of the CGST Act shall come into play only when any proceeding on the same subject-matter has already been initiated by a proper officer under the State GST Act.

Thus, there is no proceeding by a proper officer against the petitioner on the same subject-matter referable to Section 6(2)(b) of the U.P.G.S.T. Act. It is merely an inquiry by a proper officer under Section 70 of the C.G.S.T. Act - petition dismissed.