

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 25229/2024

(Arising out of impugned final judgment and order dated 15-01-2024 in WPT No. 4491/2023 passed by the High Court Of Jharkhand at Ranchi)

THE SENIOR INTELLIGENCE OFFICER DIRECTORATE
GENERAL OF GST INTELLIGENCE & ORS.

Petitioner(s)

VERSUS

VIVEK NARSARIA

Respondent(s)

(FOR ADMISSION and I.R. and IA No.181771/2024-CONDONATION OF DELAY IN FILING and IA No.181772/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.181773/2024-CONDONATION OF DELAY IN REFILEING / CURING THE DEFECTS)

Date : 27-08-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s) Mr. N.venkatraman, A.S.G.
Mr. Gurmeet Singh Makker, AOR
Mr. V C Bharathi, Adv.
Ms. B Sunita Rao, Adv.
Mr. Raghav Sharma, Adv.
Mr. Siddhant Kohli, Adv.
Mr. Pratyush Srivastava, Adv.
Mr. Gunmaya S Mann, Adv.

For Respondent(s) Mr. Tarun Gulati, Sr. Adv.
Mr. Kishore Kunal, AOR
Ms. Diva Devarsha, Adv.
Mr. Devansh Garg, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Delay condoned.

Issue notice to the respondent.

Mr. Kishore Kunal, learned counsel accepts notice

on behalf of the respondent.

Signature Not Verified
Digitally signed by
Neetu Sachdeva
Date: 2024.08.27
17:06:20 IST
Reason: 

(NEETU SACHDEVA)
ASTT. REGISTRAR-cum-PS

(MALEKAR NAGARAJ)
COURT MASTER (NSH)

IN THE HIGH COURT OF JHARKHAND AT RANCHI**W.P(T) NO. 4491 of 2023**

.....

VIVEK NARSARIA, Son of Raj Kumar Narsaria, Resident of Ishan Apartment, Flat No. 201, Lake Avenue, Behind Reliance Mart, Kathar Gonda, Kanke Road, Misirgonda, P.O.- Gandhi Nagar, P.S.- Gonda, District- Ranchi-834008, Jharkhand.

..... PETITIONER

Versus

1. The State of Jharkhand
2. The Commissioner of State Taxes, having its Office at Project Bhawan, Dhurwa, P.O.- Dhurwa, P.S.- Jagganathpur, Ranchi-834004, Jharkhand.
3. The Joint Commissioner of State Taxes, Ranchi Division, Ranchi, having its Office at Beside Civil Court, Ranchi, Kutchery, P.O.- G.P.O., P.S.- Kotwali, Ranchi-834001, Jharkhand.
4. The Principal Commissioner, Central Goods & Service Tax and Central Excise, having its Office at Central Revenue Building, 5A, Mahatma Gandhi Road, P.O. Chutia, P.S. Doranda, District- Ranchi 834001, Jharkhand.
5. The Senior Intelligence Officer, Directorate General of GST Intelligence, Regional Unit, Jamshedpur, 2nd& 3rd Floor, Shaurya Trade Center, 159, Dhalbhum Road, P.O. & P.S.- Sakchi, Jamshedpur-831001, Jharkhand.

..... RESPONDENTS

.....

CORAM: **Hon'ble Mr. Justice Rongon Mukhopadhyay**
Hon'ble Mr. Justice Deepak Roshan

.....

For the Petitioner : M/s. Nitin Kr. Pasari,
Ms. Sidhi Jalan &
Shubham Choudhary, Advocates
For the Respondent No.1 to 3 : Mr. Sachin Kumar, AAG-II
Mr. Ravi Prakash Mishra, A.C to AAG-II
For the Respondent No.4: Mr. Amit Kumar, Advocate
For the Respondent No.5: Mr. Ratnesh Kumar, Sr. Standing Counsel

.....

CAV on :-28.11.2023**Pronounced on: 15 /01/2024****JUDGMENT**

Per Deepak Roshan, J. The instant application has been preferred by the petitioner for the following reliefs:-

- (a) *For issuance of an appropriate writ, order or direction, holding and declaring that in terms of Section 6 of the Central Goods and Services Tax Act, 2017 read with Section 6 of the Jharkhand State Goods and Services*

Tax Act, 2017 as also the provision of Integrated Goods and Services Act, 2017, read with clarifications issued from time to time, the authority once initiated the proceedings commencing from enquiry/ search and seizure, is empowered to complete the entire process of investigation and complete the modalities, in the case in hand State Goods and Services Tax and not by the Preventive Wing of Central Goods & Services Tax or by the Directorate General of Goods & Services Tax Intelligence.

(b) Consequent upon holding and declaring that the initiation and conclusion by the prior authority is the rule of law, hence, the notices issued subsequently viz., (Annexure-3, Annexure-4, Annexure-5, Annexure-7, Annexure-8, Annexure-10, Annexure-12 Series & Annexure-14) issued by the two different Wings of Central Goods & Services Tax be quashed and set aside and the State GST be allowed to carry the further proceedings.

2. During the pendency of the writ petition, the Petitioner filed an Interlocutory Application vide I.A. No. 9286/2023 *inter-alia* challenging the attachment of bank accounts of the Petitioner by issuing Form GST DRC-22 dated 30.04.2023, issued by the Respondent No.5 herein (Senior Intelligence Officer, DGGI, Jamshedpur) and more than 7 Bank Accounts have been frozen.

3. The brief facts of the case lie in a very narrow campus. The Petitioner is the proprietor of M/s. Manish Trading Company, Lalgotwa, Ranchi, having GSTIN No. 20AHUPN9856C2ZZ and is carrying on the business of trading of Iron & Steels and Cements, since 2017-18. As per the averments made in the writ petition, the purchases and sales are duly reflected in the GST returns furnished by the Petitioner and the outward tax liability is adjusted against the Input Tax Credit available to the Petitioner.

On 16.03.2023, an inspection was carried out by the Intelligence Bureau of the State Goods & Service Tax, and in terms thereof GST INS-01 has been issued and after the inspection is concluded, the GST Officers fixed the date for furnishing books of accounts. As per the Petitioner an amount of Rs.34.00 lakhs from the Cash ledger of the Petitioner and Rs.06.00 lakhs from the proprietorship firm of his wife were made to deposit.

While the proceedings had been initiated by the State Goods & Services Tax Department, the Petitioner was served with a notice dated 10.04.2023 by the Preventive Branch of Central Goods & Services Tax, Ranchi with a direction to reverse the Input Tax Credit along with interest and penalty on account of alleged purchases from the non-existent entity.

While two departments were in *seisin* of the proceedings, a search was carried out by the DGGI, Intelligence Branch of CGST on 06.06.2023 and various seizures were made and a *Panchnama* was also drawn to that effect. Followed by the earlier notices of the Preventive Branch dated 10.04.2023, various notices were issued from time to time viz., 07.06.2023; 21.06.2023 including Summons by the Preventive Wing dated 26.06.2023. Simultaneously after the search was carried out by the DGGI Unit, simultaneous Summons were issued vide Summon dated 21.06.2023; 03.07.2023; 07.07.2023; 11.07.2023 and 13.07.2023.

Again on 24.07.2023, the residential flat of the Petitioner was searched and the statement of Petitioner's wife and mother namely Mrs. Soni Narsaria and Mrs. Usha Narsaria, were recorded. While the summons issued by the State GST (Preventive Wing) and DGGI was to be attended, the petitioner made certain reversal on different dates vide GST DRC 03, totaling to a sum of Rs. 3.42 Crores.

Under the circumstances, since the petitioner has received summons from 3 Departments of GST, the petitioner has approached this Court, seeking a declaration that the authority who has initiated the proceedings prior in point of time, shall be the only authority to carry out the proceedings. In order to buttress the argument, the petitioner has relied upon **Notification No. 39/2017-Central Tax dated 13.10.2017** and the **Clarification bearing D.O.F. No. CBEC/20/43/01/2017-GST(Pt.) dated 5.10.2018**, in terms of which, it is sought to be impressed:

3. *It is accordingly clarified that 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.

4. *In other words, 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.*

5. *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.*

4. In order to further buttress its arguments, the petitioner had also relied upon an internal communication bearing **F. No. CBEC-20/10/07/2019-GST by the GST Wing dated 22.06.2020**, which provided for **'the clarification on cross empowerment'**, which read as follows:

2. *Issue raised in the reference is whether intelligence based enforcement actions initiated by the Central Tax officers against those taxpayers which are assigned to the State Tax administration gets covered under section 6(1) of the CGST Act and the corresponding provisions of the SGST/UTGST Acts or whether a specific notification is required to be issued for cross empowerment on the same lines as notification No. 39/2017-CT dated 13.10.2017 authorizing the State Officers for the purpose or refunds under section 54 and 55 of the CGST Act.*

3.1 *The issue has been examined in the light of relevant legal provisions under the CGST Act, 2017. It is observed that Section 6 of the CGST Act provides for cross empowerment of State Tax officers and Central Tax officers and reads as:*

"6. (1) Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes- of this Act, subject to such conditions as the Government shall, on the recommendations of the Council, by Notification specify.

3.2. *Thus in terms of sub-section (1) of section 6 of the CGST Act and sub-section (1) of section 6 of the respective State GST Acts respective State Tax officers and the Central Tax officers respectively are authorised to be the proper officers for the purposes of respective Acts and no separate notification is required for exercising the said powers in this case by the Central Tax Officers under the provisions of the State GST Act. It is noteworthy in this context that the registered person in GST are registered under both the CGST Act and the respective SGST/UTGST Act.*

3.3 *The confusion seems to be arising from the fact that, the said sub-section provides for notification by the Government if such cross empowerment is to be subjected to conditions. It means that notification would be required only if any conditions are to be imposed. For example, Notification No. 39/2017-CT dated 13.10.2017 restricts powers of the State Tax officers for the purposes of refund and they have been specified as the proper officers only under section 54 and 55 of the CGST Act and not under rule 96 of the CGST Rules, 2017 (IGST Refund on exports). If no notification is issued to impose any condition, it means that the officers of State and Centre have been appointed as proper officer for all the purpose of the CGST Act and SGST Acts.*

4. Further, it may kindly be noted that a notification under section 6(1) of the CGST Act would be part of subordinate legislation which instead of empowering the officer under the Act, can only be used to impose conditions on the powers given to the officers by the section. In the absence or any such conditions, the power of Cross- empowerment under section 6(1) of the CGST Act is absolute and not conditional.

5. Mr. Nitin Pasari, learned counsel for the petitioner assisted by Mr. Shubham Choudhary has argued at length and has taken this court through the relevant provisions of the State GST as also, the Central GST Act 2017, which is *pari-materia* the same and which thus are profitably quoted for ready reference:

6. – Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances –

(1) Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes of this Act, subject to such conditions as the Government shall, on the recommendations of the Council, by notification, specify.

(2) Subject to the conditions specified in the notification issued under sub-section (1),–

(a) where any proper officer issues an order under this Act, he shall also issue an order under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as authorised by the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, under intimation to the jurisdictional officer of State tax or Union territory tax;

(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.

(3) Any proceedings for rectification, appeal and revision, wherever applicable, of any order passed by an officer appointed under this Act shall not lie before an officer appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act.

Much emphasis has been laid by Mr. Pasari on the issue of ‘cross empowerment’ viz., section. 6(2)(b) read with the Notification & the Clarification issued dated 05.10.2018 and 22.06.2020. He contends that undisputedly and undeniably, the entire proceedings were initiated as recent as 16.03.2023 by the inspecting team of State GST and based upon which, certain deposits have also been made and the State has also issued summons and notices from time to time, the last being 01.09.2023 under the signature of Assistant Commissioner of State Taxes (Investigation Bureau), Ranchi Circle, Ranchi.

6. Mr. Pasari has further contended that attachment of Bank Accounts by issuing GST DRC 22 has been carried out, exercising powers under section 83 of the Central Goods & Services Tax Act, 2017, which is in conflict with the notification issued by the CBEC from time to time, concerning guidelines for attachment of Bank Accounts. In order to buttress this submissions, the petitioner has relied upon the judgments rendered in the case of ***Vipul Chandra Pursottam Das Mahant Vs. Assistant Commissioner of State Taxes*** passed by the Gujarat High Court in ***R/Special Civil Application No. 9488 of 2023 dated 22.06.2023***, relevant portion of which reads as follows:

5. *In view of the aforesaid facts and circumstances of the present case, when the respondent no. 4 has initiated the inquiry and inspected the documents and carried out the inspection at the place of the petitioner and inquiry is going on in connection with five different Firms at present including M/s. J.M. Enterprise, for which, the summon was issued by the Respondent No. 1, whereas M/s Galaxy Enterprise, summon was issued by Respondent No. 2. Hence, we are of the view that the present petition deserves consideration.*

5.1. *The respondents no. 1 & 2 are directed to transfer the papers/documents to respondent no. 4 for necessary the papers/documents to respondent no. 4 for necessary inquiry/investigation in connection with both the Firms viz., M/s. J.M. Enterprise and M/s. Galaxy Enterprise.*

5.2. *The petitioner is directed to co-operate with the respondent no. 4 and produce necessary/required documents demanded by respondent no. 4 for the purpose of investigation/inquiry and thereafter, it is open for the respondent no. 4 to pass an appropriate order/take appropriate action in accordance with the law.*

7. Learned counsel for the petitioner further relied upon the judgment and order dated 07.01.2021 passed by the Delhi High Court reported in ***2021 SCC OnLine Del 3450 (RCI Industries & Technologies Ltd. Vs. Commissioner Dgst Delhi & Others.)***, which reads as follows:

“15. Since contentions have been raised with respect to the cross-empowerment of the Central and the State authorities, and it is asserted that there are no guidelines prescribed under the Act or the Rules, it would be profitable to throw some light on the issue. In this context, the letter issued by the Central Board of Indirect Taxes and Customs dated 5 October, 2018 which also finds mentions in the order of the Gujarat High Court in R/Special Civil Application No. 23279 of 2019 dated 27 December, 2019 titled Sureshbhai Gadhecha v. State of Gujarat, relied upon by the Petitioner, reads as under:

“LETTER D.O.F. NO. CBEC/20/43/01/2017-GST(FT.)

CLARIFICATIONS ON AMBIGUITY REGARDING INITIATION OF ENFORCEMENT ACTION BY CENTRAL TAX OFFICERS IN CASE OF TAXPAYERS ASSIGNED TO STATE TAX AUTHORITY AND VICE VERSA LETTER D.O.F. NO. CBEC/20/43/01/2017-GST(PT), DATED 5-10- 2018

It has been brought to the notice of the Board that there is ambiguity regarding initiation of enforcement action by the Central tax officers in case of taxpayer assigned to the State tax authority and vice versa.

2. In this regard, GST Council in its 9 meeting held on 16-1- 2017 had discussed and made recommendations regarding administrative division of taxpayers and concomitant issues. The recommendation in relation to cross-empowerment of both tax authorities for enforcement of intelligence based action is recorded at para 28 of Agenda note no. 3 in the minutes of the meeting which reads as follows:—

“viii. Both the Central and State tax administrations shall have the power to take intelligence based enforcement action in respect of the entire value chain”.

3. It is accordingly clarified that 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.

4. In other words, 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.

5. Similar position would remain in case of intelligence based enforcement action initiated by officers of State tax authorities against a taxpayer administrative assigned to the Central tax authority.

6. It is also informed that GSTN is already making changes in the IT system in this regard.

16. Further clarity on the issue of cross-empowerment of State GST and Central GST officers is also visible in a recent letter issued by the Central Board of Indirect Taxes and Customs being No. CBEC20/10/07/2019-GST dated 22 June, 2020 which reads as follows-

*“F. No. CBEC-20/10/07/2019-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes Customs
GST Policy Wing

Dated: 22nd June, 2020

The Principal Director General, Directorate General of GST Intelligence, 2 Floor. Wing-VI, West Block-VIII

*R.K. Puram,
New Delhi-110066*

Sir,

Subject : Reference form DGGI on Cross empowerment under GST. reg.

I am directed to refer to DGGI letter F. No. 574/CE/66/2020/Inv./15308 dated 26.05.2020 on the issues related to cross empowerment of officers in terms of provisions of section 6 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “the CGST Act”).

2. Issue raised in the reference is whether intelligence based enforcement actions initiated by the Central Tax officers against those taxpayers which are assigned to

the State Tax administration gets covered under section 6(1) of the CGST Act and the corresponding provisions of the SGST/UTGST Acts or whether a specific notification is required to be issued for cross empowerment on the same lines as notification No. 39/2017-CT dated 13.10.2017 authorizing the State Officers for the purpose or refunds under section 54 and 55 of the COST Act.

3.1 The issue has been examined in the light of relevant legal provisions under the CGST Act, 2017. It is observed that Section 6 of the CGST Act provides for cross empowerment of State Tax officers and Central Tax officers and reads as:—

“6.(1) Without prejudice to the provisions of this Act, the officers appointed under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act are authorised to be the proper officers for the purposes-of this Act, Subject to such conditions as the Government shall, on the recommendations of the Council, by Notification specify.”

3.2 Thus in terms of sub-section (1) of section 6 of the CGST Act and subsection (1) of section 6 of the respective State GST Acts respective State Tax officers and the Central Tax officers respectively are authorised to be the proper officers for the purposes of respective Acts and no separate notification is required for exercising the said powers in this case by the Central Tax Officers under the provisions of the State GST Act. It is noteworthy in this context that the registered person in GST are registered under both the CGST Act and the respective SGST/UTGST Act.

3.3 The confusion seems to be arising from the fact that, the said subsection provides for notification by the Government if such cross empowerment is to be subjected to conditions. It means that notification would be required only if any conditions are to be imposed. For example, Notification No. 39/2017-CT dated 13.10.2017 restricts powers of the State Tax officers for the purposes of refund and they have been specified as the proper officers only under section 54 and 55 of the CGST Act and not under rule 96 of the CGST Rules, 2017 (IGST Refund on exports). If no notification is issued to impose any condition, it means that the officers of State and Centre have been appointed as proper officer for all the purpose of the CGST Act and SGST Acts.”

4. Further, it may kindly be noted that a notification under section 6(1) of the CGST Act would be part of subordinate legislation which instead of empowering the officer under the Act, can only be used to impose conditions on the powers given to the officers by the section. In the absence or any such conditions, the power of Cross-empowerment under section 6(1) of the CGST Act is absolute and not conditional.”

8. Learned counsel has also relied upon the judgment of Calcutta High Court reported in **2022 SCC OnLine Cal 862 (Ideal Unique Realtors Pvt. Ltd. & Anr. Vs. Union of India & Others)**, which thus read as follows:

“4. We find that such a procedure had not been adopted in the instant case and the appellants appears to have been dealt with in a most unfair manner in the sense that from the year 2018 for the very same TRAN - 1 issue the appellants have repeatedly been summoned, issued notices etc. The spot memos, which have been communicated to the appellants along with the communications dated 22 March, 2021 is also for the very same purpose.

5. Thus, it is not clear as to why different wings of the very same department have been issuing notices and summons to the appellants without taking any of the earlier proceedings to the logical end.

6. Therefore, on that ground, we are of the view that the spot memos, which have been furnished along with the communications dated 22 March, 2021 cannot be enforced. However, we make it clear that the issue whether CERA audit can be conducted against a private entity as contended by the appellants is not gone into

as this Court is of the view that it is too premature for the Court to give a ruling on the said issue. This is more so because the authorities have not taken forward the proceedings, which they have initiated earlier from May, 2018.

7. Therefore, it is appropriate for the concerned authority to take the proceedings to the logical end after affording an opportunity of personal hearing to the appellants.

8. From the records placed before us, we find that there is no allegation against the appellants that they have not cooperated with the department in not responding to the summons issued earlier. Conveniently, the communications dated 22 March, 2021 issued by the Superintendent, Range - III, Park Street Division, CGST & CX does not refer to any of the earlier proceedings, which have been initiated against the appellants.”

9. Mr. Pasari lastly submits that the petitioner having *suo-moto* deposited an amount of Rs. 40.00 lakhs and having reversed an amount of Rs. 3.42 crores, clearly goes on to suggest that the petitioner is not fly by the night assessee and has been discharging his statutory obligations under the Act. The petitioner has also contended that the attachment of Bank Accounts is bad in law, since the same suffers from the vices of excessive jurisdiction, inasmuch as, till date there is no determination of any liability whatsoever and the petitioner is not in a position to understand as to whom he has to furnish documents or give statement, inasmuch as, the petitioner cannot be made to succumb to the jurisdiction of all the three departments and as such, the attachment also is bad in law.

10. Counter affidavit has been filed by the respective Respondents, *inter-alia* denying the allegation and contending therein:

1) Respondent No. 5 (DGGI)

4. M/s Manish Trading Company have been initiated by the Director General of Goods & Service Tax Intelligence, New Delhi vide F.No. 56/INT/DGGI/HQ/2022 Pt.1/5584 dated 06.06.2023 consequent to the busting of "Fake GST Invoicing Gang" of Noida, now referred as Noida cases in the month of June 2023.

M/s Manish Trading Company, Prop: Vivek Narsaria (herein referred to as the petitioner) is one of the availer/ beneficiary of fake invoices issued by "Fake GST Invoicing Gang" of Noida. So, DGGI, Jamshedpur regional unit Jamshedpur under the direction of Director General of Goods and Service Tax Intelligence, New Delhi had conducted search at the principal place of business of the petitioner under Section 67(2) of the Central Goods and Service Tax Act, 2017 on 06.06.2023 and fake GST Tax invoices issued by fake GSTIN entities of "Fake GST Invoicing Gang" of Noida cases, were recovered and seized. Thereafter, the instant investigations against the petitioner started by the Directorate General of GST Intelligence, Regional Unit, Jamshedpur (hereinafter referred to as DGGI, JRU for brevity). The search on 06.06.2023

was conducted by the respondent No. 05 of the Writ and who is the Senior Investigating Officer of the instant case at DGGI, JRU, Jamshedpur.

The instant proceedings have not been initiated by the State GST authority but by the Centre at Apex Level i.e. DGGI, New Delhi and DGGI, JRU, Jamshedpur is well within the jurisdiction authority under provisions of Section 6 of the Act read with letter F.No. CBEC/20/43/01/2017-GST(pt). dated 05.10.2018 (Annexure-19 of the writ petition) and letter F.No. CBEC-20/10/07/2019-GST dated 22.06.2020 (Annexure-20 of the writ petition) to proceed and conclude the instant investigation.

Investigation so far conducted reveals that many fake GSTIN entities have been created all over the India misusing Permanent Account Number (PAN) & Aadhaar Number of another person(s) for the purpose of preparing bogus bills and auto populating fake Input Tax Credit in the GSTR-2A of the targeted beneficiaries firms. These so created GSTIN entities are not real business entity, supplying goods or services as their corresponding income tax returns are not commensurate with their GSTIN transactions. Further, investigation so far conducted also revealed that the petitioner have availed fake GST input tax credit from GSTIN entities of other states like West Bengal, Chhattisgarh, Delhi etc. and utilized it by passing it to other states GSTIN entity like Bihar, Odisha etc.. Hence the instant investigations against the said petitioner is spread over inter-states' jurisdiction and DGGI having pan India jurisdiction is most suitable to investigate such cases. State GST normally prefers to transfer such cases to DGGI.

6. The instant proceedings have not been initiated by the State GST authority but by the centre at Apex level i.e., DGGI, New Delhi and as such DGGI, JRU, Jamshedpur is well within its jurisdiction under Section 6 of the Act read with letter F.No. CBEC/20/43/01/2017-GST(pt) dated 05.10.2018 and letter F.No. CBEC-20/10/07/2019-GST dated 22.06.2020 to proceed and conclude it.

2) Respondent No. 4 (Assistant Commissioner, CGST & CX, Ranchi)

5. Instant proceedings have been initiated by the other formation of CGST i.e, CGST & CX, Jamshedpur Commissionerate, CGST & CX. Raipur Commissionerate and further follow-up action was initiated by the Respondent no. 4.

7. The investigation conducted by the Respondent no. 4 is based upon E-way Bill data revelation that the Petitioner had received fake GST Tax Invoices from multiple fake GSTIN entities pertaining to different states and supplied in turn equal amount of fake GST invoices to different GSTIN entities.

3) Respondent no. 1, 2 & 3 (State of Jharkhand)

10. The writ petitioner is an assessee under the answering respondents and hence the answering respondents are duly competent to enquire into the same.

17. The investigation being occasioned by the answering respondents is just, proper and in accordance with law.

11. During the course of arguments, learned Counsel for the Respondent No.5, Mr. Ratnesh Kumar, Sr. Standing Counsel has tried to distinguish the initiation of proceedings by the State Authorities and the proceedings before the DGGI and much has been said by the DGGI upon bursting of gang at Noida operating in issuance of fake bills, without supply of goods.

12. Learned counsel for the State has tried to justify that the proceedings by the State GST Officers do not overlap with that of the proceedings by the CGST or the DGGI.

13. Learned counsel for the CGST has adopted the arguments of the Respondent No. 5, in verbatim.

14. Having heard the arguments advanced by respective parties and having perused the documents brought on record and the statements & averments made in the respective Counter Affidavits and materials available on record, we find that bare perusal of section 6 of the Act, especially Section 6(2)(b), when read with the Clarification dated 05.10.2018, further read with Clarification dated 22.06.2020, when read together, it clearly denotes and implies that it is a chain of a particular event happening under the Act and every & any enquiry/investigation carried out at the behest of any of the Department are interrelated. Even if, we accept the submission of the Respondent No. 5 that the proceedings initiated by the Respondent No. 5 is on the basis of an information received from Noida; in that event also, we are at loss to say that the DGGI is raising a question about credibility and competence of the State GST Authorities, in carrying out the investigation concerning wrong/inadmissible availment of Input Tax Credit, inasmuch as, the officers of the DGGI does not enjoy any special power or privilege in comparison with the officers of the State GST Authorities.

15. We are little hesitant to accept such argument, inasmuch as, the State Authorities has also initiated the same very proceeding for wrong/illegal availment of Input Tax Credit. Undeniably, the proceedings at the instance of State Authorities or the Preventive Wing or the DGGI is at initial stage and the proceedings on the basis of 'Search & Seizure' by the State Authorities, is prior in point of time. Hence, Section 6(2)(b) read with clarification dated 05.10.2018, adds to the issues raised by the petitioner herein and manifestly crystalizes that since all the

proceedings are interrelated, the State Authorities should continue with the proceedings.

The issue since has also been raised with attachment of bank account, which we failed to understand as to what had become so emergent that prior to any determination or finding of any irregular/inadmissible/wrong availment of Input Tax Credit, the bank account had to be attached, which appears to be an ‘arm twisting method’ to make the petitioner succumb to the particular authority, which cannot be the dictum of the Act and we deprecate the same.

16. We are therefore of the opinion that the Preventive Wing of the CGST and DGGI Wing of the CGST, shall forward all their investigation carried out as against the petitioner and inter-related transaction to the State Authorities, who shall continue with the proceedings from the same stage.

17. Consequently, we therefore direct the Respondent No. 4 & 5 to make over the entire investigations carried till date to Respondent No. 3, who shall carry out further proceedings as against the petitioner in accordance with law.

18. We further direct the Respondent No. 3 to take immediate decision with regard to de-freezing of the bank accounts in terms of the observations made by us hereinabove.

19. As a result, the instant writ application is disposed of in the manner indicated herein above. Pending I.A., if any, also stands closed.

(Rongon Mukhopadhyay, J.)

(Deepak Roshan, J.)