

TAX INFO

Dated 14.10.2022

Latest update on GST Law: **Parallel GST proceeding by different wings of same department for same period is not permissible** as given in judgement by **Calcutta High Court**.

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| Name of Petitioner | M/s. R. P. Buildcon Private Limited |
| Name of Respondent | The Superintendent, CGST |
| Court | Calcutta High Court |
| Date of Judgement | 30.09.2022 |
| Appeal No. | M.A.T. No.1595 of 2022 |

Brief Facts of the Case Law:

The intra-Court appeal was filed praying to quash the notices issued by the Anti-Evasion wing as well as the Range Office for the scrutiny of returns under Section 61 of the CGST Act, 2017 as the same cannot be done once an audit under Section 65 of the CGST Act, 2017 has been conducted by the department for the same tax period. The three wings of the same department were proceeding against the appellants for the very same period, i.e. financial years 2017- 2018, 2018-2019 and 2019-2020. The Audit Commissionerate had issued notice under Section 65 of the CGST Act, 2017 dated 9th November, 2021. The appellants had furnished the details as called for in the said notice and also responded to the intimation dated 5th January, 2022 / 6th January, 2022 for conducting GST audit. There were four issues were pointed out for the said period, out of which two issues as pointed out by the audit was accepted by the appellants and the necessary tax and interest were remitted and for the remaining two issues, the appellants had submitted their response to the notice and the matter has not been taken to the logical end. In the meantime, the other two wings of the department, i.e. Anti-Evasion wing as well as the Range Office have also proceeded against the appellants by issuing notices for the very same period for which audit proceedings under Section 65 of the Act has already commenced.

Findings and Decision of the Court:

We find that the three wings of the department are proceeding against the appellants because the Range office was not aware about the proceedings initiated by the Audit Commissionerate and the Anti Evasion also was not aware of the same. It is not clear as to why in the present days of electronic communications available in the department; such parallel proceedings can be conducted by three wings of the same department for the very same period.

Since the audit proceeding under Section 65 of the Act has already commenced, it is appropriate that the proceedings should be taken to the logical end. The proceedings initiated by the Anti Evasion and Range Office for the very same period shall not be proceeded with any further. They are restrained from proceeding further against the appellants in respect of the very same period for which already action has been initiated i.e. for the financial years 2017- 2018, 2018-2019 and 2019-2020.

The above direction is confined only for the period covered for the financial years 2017- 2018, 2018- 2019 and 2019-2020.

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