

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 16791 of 2024

Date of Decision: 05.05.2026

M/s. Radha Krishan Industries

....Petitioner

Versus

Union of India & Ors.

....Respondents

Coram

Hon'ble Mr Justice Vivek Singh Thakur, Judge.

Hon'ble Mr Justice Ranjan Sharma, Judge.

Whether approved for reporting?¹

For the Petitioner : Mr. Surjeet Bhadu, Senior Advocate (through VC), with Mr. Jyotirmay Bhatt, Advocate.

For the Respondents : Mr. Balram Sharma, DSGI with Mr. Rajeev Sharma, Advocate, for respondent No.1 - UOI.

Mr. Vijay Kumar Aroa, Senior Advocate, with M/s. Hitansh Raj, Gaurav Kumar & Godawari, Advocates, for respondents No. 2, 4, 5 and 6.

Mr. Anup Rattan, Advocate General, with Ms. Sushant Keprate, Additional Advocate General & Ms. Swati Draik, Deputy Advocate General, for respondent No.3 – State.

Vivek Singh Thakur, Judge (oral)

Petitioner, invoking provisions of Article 226 of the Constitution of India, has filed the present Writ Petition, praying for the following substantive reliefs:-

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“(i) Issue a writ, challenging the proceedings initiated by Respondent No. 4 being without jurisdiction and contrary to Section 6 of the Central Goods and Services Tax Act, 2017 (CGST Act) and Himachal Pradesh Goods and Services Tax Act, 2017 (HPGST, Act); &

(ii) Issue a writ quashing of the Show Cause Notice No. 387/2024-25 dated 02.08.2024 (Annexure P-1) issued by Respondent No.5, being without jurisdiction and contrary to Section 6 of the Central Goods and Services Tax Act, 2017 (CGST Act) and Himachal Pradesh Goods and Services Tax Act, 2017 (HPGST, Act)”

2. Main issue involved in present Writ Petition is related to prohibition contained in Section 6(2)(b) of the Central Goods and Services Tax Act, 2017 (“CGST Act”), against initiation of parallel proceedings on the same subject-matter, despite an earlier initiation of proceedings by another jurisdictional Authority.

3. The aforesaid issue is no-longer res-integra, but stands substantially resolved by the Apex Court in M/s Armour Security (India) Ltd. v. Commissioner, CGST, Delhi East & Anr., AIR 2025 SC 3854, which lays down binding directions regarding the scope of ‘initiation of proceedings’, ‘subject-matter’, and the ‘inter- relationship between Central and State GST Authorities’. Relevant paragraphs No.96 and 97, containing conclusions including guidelines, read as under:

“E. CONCLUSION

96. We summarize our final conclusion as under: -

i. Clause (b) of sub-section (2) of Section 6 of the CGST Act and the equivalent State enactments bars the “initiation of any proceedings” on the “same subject matter”.

ii. Any action arising from the audit of accounts or detailed scrutiny of returns must be initiated by the tax administration to which the taxpayer is assigned.

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iii. Intelligence based enforcement action can be initiated by administrations despite the taxpayer having been assigned to the other administration.

iv. Parallel proceedings should not be initiated by other tax administration when one of the tax administrations has already initiated intelligence-based enforcement action.

v. All actions that are initiated as a measure for probing an inquiry or gathering of evidence or information do not constitute “proceedings” within the meaning of Section 6(2)(b) of the CGST Act.

vi. The expression “initiation of any proceedings” occurring in Section 6(2)(b) refers to the formal commencement of adjudicatory proceedings by way of issuance of a show cause notice, and does not encompass the issuance of summons, or the conduct of any search, or seizure etc.

vii. The expression “subject matter” refers to any tax liability, deficiency, or obligation arising from any particular contravention which the Department seeks to assess or recover.

viii. Where any two proceedings initiated by the Department seek to assess or recover an identical or a partial overlap in the tax liability, deficiency or obligation arising from any particular contravention, the bar of Section 6(2)(b) would be immediately attracted.

ix. Where the proceedings concern distinct infractions, the same would not constitute a “same subject matter” even if the tax liability, deficiency, or obligation is same or similar, and the bar under Section 6(2)(b) would not be attracted.

x. The twofold test for determining whether a subject matter is “same” entails, first, determining if an authority has already proceeded on an identical liability of tax or alleged offence by the assessee on the same facts, and secondly, if the demand or relief sought is identical.

97. We issue the following guidelines to be followed in cases where, after the commencement of an inquiry or investigation by one authority, another inquiry or investigation on the same subject matter is initiated by a different authority.

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a. Where a summons or a show cause notice is issued by either the Central or the State tax authority to an assessee, the assessee is, in the first instance, obliged to comply by appearing and furnishing the requisite response, as the case may be. We say, so because, mere issuance of a summons does not enable either the issuing authority or the recipient to ascertain that proceedings have been initiated.

b. Where an assessee becomes aware that the matter being inquired into or investigated is already the subject of an inquiry or investigation by another authority, the assessee shall forthwith inform, in writing, the authority that has initiated the subsequent inquiry or investigation.

c. Upon receipt of such intimation from the assessee, the respective tax authorities shall communicate with each other to verify the veracity of the assessee's claim. We say, so as this course of action would obviate needless duplication of proceedings and ensure optimal utilization of the Department's time, effort, and resources, bearing in mind that action initiated by one authority enures to benefit of all.

d. If the claim of the taxable person regarding the overlap of inquiries is found untenable, and the investigations of the two authorities pertain to different "subject matters", an intimation to this effect, along with the reasons matters, shall be immediately conveyed in writing to the taxable person.

e. The taxing authorities are well within their rights to conduct an inquiry or investigation until it is ascertained that both authorities are examining the identical liability to be discharged, the same contravention alleged, or the issuance of a show cause notice. Any show cause notice issued in respect of a liability already covered by an existing show cause notice shall be quashed.

f. However, if the Central or the State tax authority, as the case may be finds that the matter being inquired into or investigated by it is already the subject of inquiry or investigation by another authority, both authorities shall decide inter-se which of them shall continue with the inquiry or investigation. In such a scenario the other authority shall duly forward all material and information relating to its inquiry or investigation into the matter to the authority designated to carry the inquiry or investigation to its logical conclusion. We say, so because, the taxable person except for being afforded the statutory protection from duplication of proceedings, otherwise has no locus to claim which authority should proceed with the inquiry or investigation in a particular matter.

g. However, where the authorities are unable to reach a decision as to which of them shall continue with the inquiry or investigation then in

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such circumstances, the authority that first initiated the inquiry or investigation shall be empowered to carry it to its logical conclusion, and the courts in such a case would be competent to pass an order for transferring the inquiry or investigation to that authority.

h. If it is found that the authorities are not complying with these aforementioned guidelines, it shall be open to the taxable concerned High Court under Article 226 of the Constitution of India.

i. At the same time, taxable persons shall ensure complete cooperation with the authorities. It is incumbent upon them to appear in response to a summons and/or reply to a notice.”

4. The petitioner has challenged the action of the Central GST authorities in issuing Show Cause Notice dated 02.08.2024 (Annexure P-1) under Section 74(1) of the CGST Act, 2017, on the ground that inquiry has been initiated firstly by the State GST Authority from the year 2018 in respect of the same subject matter. It is contended that in view of Section 6(2)(b) of the CGST Act, the Central Authority is barred from initiating any further proceedings.

5. The learned counsel representing the State and Central GST authorities submit that they shall abide by the statutory mandate under Section 6(2)(b) of the CGST Act and the principles laid down in paras 96 and 97 of the judgment of the Apex Court in *Armour Security (India) V/s Commissioner, CGST, Delhi East Commissionarate & Another* AIR 2025 SC 3854. It has been further submitted that appropriate coordination shall be maintained between the authorities to ensure that no parallel adjudicatory proceedings take place.

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6. Mr. Vijay Kumar Arora, Senior Advocate, under instructions, has referred Courts i.e. Agrawal Soya Extracts (P.) Ltd. V. Union of India, reported in (2025)179 Taxmann.com 66 (Madhya Pradesh); Sensation Infracon (P.) Ltd. v. State of Telangana, reported in (2025) 177 Taxmann.com.627 (Telangana); and Ravi Steel Industries v. Union of India, reported in (2025) 179 Taxmann.com 452 (Bombay), whereby directions were issued to the petitioner to present its case before the competent authorities by furnishing all the supportive documents related to summons and Show Cause Notice with a further directions to GST Authorities to decide the same in terms of para 96 and 97 of the Armour case Judgment.

7. The Apex Court, in Armour Security case, has held that once one authority—Central or State—has initiated proceedings first in point of time, any subsequent parallel adjudicatory proceedings on the same cause of action by the other authority are barred under Section 6(2)(b). The Apex Court has emphasized the need to avoid overlapping proceedings and multiplicity, while at the same time clarifying that legitimate investigative steps by either authority may continue so long as they do not result in parallel adjudication.

8. In Armour Security case, referred supra, particularly paras 96 and 97, it has been laid down that once one authority (Central or State) has initiated proceedings first in point of time, the other

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authority is barred from commencing parallel adjudicatory proceedings on the steps for investigation, such as summons under Section 70, are permissible unless they amount to initiation of a parallel proceeding; and any subsequent proceedings, if inconsistent with Section 6(2)(b), must give way to the proceedings first initiated.

9. In present case, from the material on record, it is apparent that Show Cause Notice dated 02.08.2024 (Annexure P-1), summons dated 07.05.2019 (Annexure P-4), 21.01.2021 (Annexure P-7), 04.02.2021 (Annexure P-9) were issued by the Central Authority, whereas summon/notice dated 03.10.2018 (Annexure P-2) & 18.03.2024 (Annexure P-11) have been issued by the State Authorities.

10. The issue involved in present case is that whether the summons/notices issued by respondent No.3 Joint Commissioner, State Taxes and Excise shall prevail over Show Cause Notice dated 02.08.2024 (Annexure P-1), summons dated 07.05.2019 (Annexure P-4), 21.01.2021 (Annexure P-7), 04.02.2021 (Annexure P-9) were issued by the Central Authority, being 'parallel proceedings' barred by Section 6(2)(b) of CGST Act.

11. Applying the conclusions and guidelines, contained in Armour Security case, to the facts of this case, we are of the considered opinion that no further adjudication is required, except issuing

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directions consistent with the law declared in Armour Security case (supra).

12. Accordingly, petition is disposed of in the following terms:-

“(I) Petitioner is directed to appear before the Central Authority and file the response of Show Cause Notice, so issued, and raise the contentions along with relevant documents in terms of the judgment passed by the Apex Court in Armour case on or before 01.06.2026.

(II) With respect to summon/notice, the petitioner is directed to comply with the summon/notice and raise the contentions available with him including informing the State Authorities regarding issuance of Show Cause Notice in terms of para 97(a) & (b) of the Armour judgment (supra). The petitioner shall respond to all lawful requisitions and assist in the inquiry/investigation as required.

(III) Thereafter, the State Authority shall communicate with the Central Authority to verify the claim of the assessee in terms of Para 97(c) of the Armour judgment.

(IV) Both authorities shall coordinate to ensure that the assessee is not subjected to multiple adjudicatory processes on the same subject matter by following verdict of the Armour Security case.

(V) Thereafter, the adjudicatory authority shall proceed further in accordance with law including providing the petitioner opportunity of being heard.”

13. It is made clear that this Court has not expressed any opinion on the merits of the allegations or on the validity of the Show Cause Notice or the summons/notices. All rights and contentions of the parties are kept open. Again there is no reason to believe that such a contention or for that matter, the decision of the Apex Court in the case

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of Armour Security (supra), will not be considered by the authority that has issued Show Cause Notice.

Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(Vivek Singh Thakur)
(Judge)

(Ranjan Sharma)
(Judge)

05th May, 2026
(Shamsh Tabrez)