IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.10461 of 2023
Date of decision: 20.05.2026

M/s Saraswati Spinning and Weaving Mills. ...Petitioner.

Versus

State of Himachal Pradesh & Ors. …Respondents.

Coram

Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Hon'ble Mr. Justice Ranjan Sharma, Judge.

Whether approved for reporting?[1] *Yes.*

For the petitioner	:	Mr. J.S. Bedi, Advocate.
For the respondents	:	Mr. Anup Rattan, Advocate General with Mr. Sushant Keprate, Additional Advocate General, for respondents No.1 to 5 and 8.
	:	Mr. Vijay K. Arora, Senior Advocate with Ms. Godawari, Mr. Hitansh Raj and Mr. Gaurav Kumar, Advocates, for respondents No.6 & 7.

Vivek Singh Thakur, Judge

Petitioner has approached this Court seeking following main substantial relief(s):-

> "i. For issuance of a writ in the nature of certiorari/ mandamus for quashing /reading down the provisions of Section 16(2)(c) of the Central GST Act / Himachal Pradesh GST Act, 2017 read with Central GST Act, 2017 which restrict the claim of Input Tax Credit in case the tax has not been actually paid to the government either in cash or through utilization of Input Tax Credit being violative of Articles 14 and 19(1)(g), 265 and 300A of the Constitution of India and also for the reason that by way of the Provisions of Section 16(2)(c), the petitioner is being asked to do an impossible task which is otherwise not

[1] *Whether the reporters of the local papers may be allowed to see the Judgment? Yes*

possible in absence of any mechanism provided by the Government

ii. For issuance of writ of certiorari for quashing the DRC-01A and DRC-01 issued by the State Tax Authorities for the period of 2019-20 and 2020-21 as the same was issued in contradiction to the provisions of Act i.e. section 6(2)(b) of the Act as CST authorities have already assumed the jurisdiction.

iii. For issuance of a writ in the nature of mandamus directing respondent no.3 not to proceed further in pursuance to DRC-01 (Annexure P-10 & P-11) for the period of 2019-20 and 2020-21 issued by Respondent no.4 along with intimation of tax ascertained payable under section 74(5) in form DRC-01A (Annexure P-7 and 7-A) as the proceedings in question are illegal and contrary to the provisions of the Central GST Act / Himachal Pradesh GST Act and IGST Act 2017."

2. Learned counsel for the petitioner submits that, at present, the petitioner does not press Relief No.i, reserving the right to agitate this issue in an appropriate petition, if so desired.

3. It has been further submitted that after issuance of intimation of liability notice DRC-01A dated 10.10.2023 (Annexure P-7), Show Cause Notice dated 22.11.2023 (Annexure P-10) for Financial Year 2019-2020, and DRC-01A dated 10.10.2023 (Annexure P-7A), Show Cause Notice dated 30.11.2023 (Annexure P-11) for Financial Year 2020-2021 by respondent No.3-Deputy Commissioner of State Tax & Excise, Sirmour, South Zone, Shimla, the petitioner had submitted detailed replies along with documents claiming entitlement to the benefit of Input Tax Credit. However, without considering the same, further proceedings in the form of impugned summary show cause notices/detailed notices dated 10.10.2023 (Annexure P-7), 22.11.2023 (Annexure P-10) for Financial Year 2019-2020 and, 10.10.2023 (Annexure P-7A), 30.11.2023 (Annexure P-11) for

Financial Year 2020-2021, were issued, which have been assailed in the present petition.

4. It has been further submitted that the petitioner would be satisfied, if the concerned authorities are directed to consider the claim/objections afresh along with documents filed/to be filed by or on behalf of the petitioner before the competent authority in response to the aforesaid summary show cause notices/detailed notices specifically dealing that whether payments on purchases in question, along with GST, were actually paid or not to the supplier (RTP) and whether the transactions and purchase in question are genuine and supported by valid documents, and whether transactions and purchase in question were made before or after the cancellation of the supplier's registration, as well as compliance with statutory obligations by the petitioner regarding verification of the identity of the supplier (RTP), in accordance with law, as applicable.

5. It has been further submitted that, if upon consideration of the relevant documents, it is found that all purchases and transactions are genuine and supported by valid documents and were made prior to the cancellation of the supplier's registration, the petitioner be granted the benefit of Input Tax Credit in question.

6. Learned Advocate General submits that, in case, the petitioner files a fresh response to the summary show cause notices/detailed notices before the competent authority along with

relevant documents to substantiate the claim of petitioner, the competent authority shall decide the same within a reasonable time.

7. Further case of the petitioner is that for the same Financial Years, CGST Authority, i.e. respondent No.6-Assistant Commissioner CGST, Division Parwanoo, issued show cause notice dated 09.01.2023 (Annexure P-3) and resultantly, for the same period, CGST Authorities have also initiated parallel proceedings on the subject matter in view of Section 6(2)(b) of the Central Goods and Services Tax Act, 2017, and such parallel proceedings are not maintainable.

8. 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.,*** reported in ***AIR 2025 SC 3854 & (2025) SCC Online 1700***, which lays down binding directions regarding the scope of 'initiation of proceedings', 'subject-matter', and the 'interrelationship between Central and State GST authorities'. Relevant paragraphs No.96 and 97, containing conclusions including guidelines, read as under:-

> "**E. CONCLUSION**
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> 96. We summarize our final conclusion as under: -
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> 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".
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> 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.

iii. Intelligence based enforcement action can be initiated by any one of the Central or the State tax 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.

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 and a specification of the distinct subject 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 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 person to file a writ petition before the concerned High Court under Article 226 of the Constitution of India.
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> 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."

9. 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*** (*supra*). It has been further submitted that appropriate coordination shall be maintained between the authorities to ensure that no parallel adjudicatory proceedings take place.

10. Mr. Vijay Kumar Arora, Senior Advocate, under instructions, has referred judgments passed by various High Courts i.e. **Agrawal Soya Extracts (P.) Ltd. V. Union of India**, reported in ***(2025)179 Taxmannn.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 judgment passed in **Armour Security** (*supra*).

11. The Apex Court, in **Armour Security**'s case (*supra*), 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.

12. In in **Armour Security**'s case (*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 authority is barred from commencing parallel adjudicatory proceedings on the same subject matter; however, bona fide 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.

13. 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 directions consistent with the law declared in **Armour Security**'s case (*supra*).

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

(i) With respect to notice/intimation/show cause notice, i.e. DRC-01A, DRC-01 etc., issued by Central Authority, petitioner is directed to appear before the Central Authority and file response raising all issues and contentions along with the relevant documents in terms of the judgment passed by the Apex Court in Armour case on or before 30.06.2026.

(ii) With respect to summons/intimations as well as show cause notice, i.e. DRC-01A and DRC-01, issued by State Authority, the petitioner shall submit fresh response to the notices before the Competent Authority of the State along with relevant documents to substantiate the claim of the petitioner on or before 30.06.2026.

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

(iv). Both authorities shall coordinate to ensure that the assesse is not subjected to multiple adjudicatory processes on the same subject matter, by following verdict of the **Armour Security**'s case (*supra*).

(v). Thereafter, the adjudicatory authority shall proceed further, after taking a decision regarding the competent authority (State or Central), who will continue the proceedings, in accordance with law, including by providing an opportunity of hearing to the petitioner, keeping in view the aforesaid

submissions made by the petitioner qua his claim for the benefit of Input Tax Credit, and shall pass appropriate speaking and reasoned order thereupon within six weeks from the date of filing of such objections/response, in accordance with law.

(vi). In case no response is filed by the petitioner either before the Central Authority or the State Authority within 30 days, the competent authority shall proceed further in accordance with law by recording that the petitioner has nothing to say in response to the said notice(s). However, it shall be ensured that, for the same period and the same subject matter, no parallel proceedings are continued against the petitioner, and the proceedings are continued only before the competent authority in terms of ***Armour Security's*** case (supra).

15. Petition is disposed of in aforesaid terms along with pending applications, if any.

(Vivek Singh Thakur)
Judge

(Ranjan Sharma)
Judge

20th May, 2026
(Pardeep)