
(2022) 01 DEL CK 0088

In the Delhi High Court

Case No : CONT.CAS(C) No. 751 Of 2021, Civil Writ Petition No. 2420, 4036 Of 2021, Civil Miscellaneous No. 12202, 35806 Of 2021

M/S. Indo International Tobacco Ltd

APPELLANT

Vs

Vivek Prasad, Additional Director General, DGGI & Ors

RESPONDENT

Date of Decision : 11-01-2022

Acts Referred:

Constitution Of India, 1950 — Article 246A, 254, 279A(2), 279A(6), 279A(70), 279A(11)

Central Goods and Services Tax Act, 2017 — Section 2(91), 3, 4, 5, 6, 6(1), 6(2), 6(2)(a), 6(2)(b), 54, 67, 70, 73, 74, 83, 168

Integrated Goods and Services Tax Act, 2017 — Section 3

Citation : (2022) 01 DEL CK 0088

Hon'ble Judges : Manmohan, J; Navin Chawla, J

Bench : Division Bench

Advocate : S.Ganesh, Anjali J. Manish, Priyadarshi Manish, Kinjal Shrivastava, N.Venkataraman, Ravi Prakash, Chandrashekhar, Shruti Shivkumar, Ram Narayan, Mallika Joshi

Final Decision : Dismissed

Judgement

,,,,

Navin Chawla, J",,,,,

1. The above two writ petition(s), being W.P.(C) 2420 of 2021 and W.P.(C) 4036 of 2021, raise a common question of law and are premised on the",,,,,

Circular, bearing D.O. F. No. CBEC/20/43/01/2017-GST (Pt.), dated 05.10.2018, issued by the Central Board of Excise and Customs, New Delhi",,,,,

(hereinafter referred to as the "Circular"), and are therefore, being considered and disposed of by this common judgment.",,,,,

W.P.(C) 2420/2021,,,,,

2. In W.P.(C) 2420 of 2021, it is the case of the petitioner that it is engaged in the manufacturing and supply of tobacco products. It obtained GST",,,,,

Registration on 21.10.2019 from the jurisdictional Office situated at Gautam Buddh Nagar, Uttar Pradesh, as the petitioner's firm was registered and",,,,,

had its principal place of business within the jurisdiction of the said Commissionerate.,,,,,

3. The petitioner commenced its commercial operations in the month of December 2019.,,,,,

4. On 19.03.2020, a search was carried out at the petitioner's premises by the CGST Officers from Gautam Buddh Nagar. The petitioner alleges",,,,,

that no shortcomings were noticed in the said search operation. Thereafter, a Show Cause Notice dated 20.04.2020 was issued by the Assistant",,,,,

Commissioner, Central Tax Division-I, Gautam Buddh Nagar, Uttar Pradesh, calling upon the petitioner to show cause why its refund claim, filed for",,,,,

the month of February 2020 under Section 54 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act"), be",,,,,

not rejected and the alleged inadmissible credit amounting to Rs. 18,26,78,282/- (Rupees eighteen crore twenty-six lakh seventy-eight thousand two",,,,,

hundred eighty-two) be not recovered from the petitioner.,,,,,

5. The Assistant Commissioner, Gautam Buddh Nagar, further, vide its order dated 11.05.2020 passed under Section 83 of the CGST Act called upon",,,,,

the ICICI Bank, where the petitioner maintained its bank account, to supply the KYC documents along with the details of the banking transactions. It",,,,,

was further directed that the bank account of the petitioner shall remain provisionally attached and no debit shall be allowed to be made from the said",,,,,

account without prior permission of the Department.,,,,,

6. Thereafter, summons dated 05.06.2020 under Section 70 of the CGST Act was issued to the petitioner calling upon the petitioner to produce various",,,,,

documents.,,,,,

7. The petitioner claims that as its refund was not released and the bank account of the petitioner remained attached in spite of various",,,,,

representations, the petitioner filed two writ petitions, being Civil Writ Petition No(s). 461 of 2020 and 462 of 2020, before the Hon'ble High Court of",,,,,

Allahabad, wherein notice was issued in the petitions and pleadings therein were directed to be completed. However, during the pendency of the",,,,,

above petitions, another search was carried out at the premises of the petitioner by the Officers of the CGST, Gautam Buddh Nagar, on 07.10.2020." ,,, ,

On 24.11.2020, yet another summons under Section 70 of the CGST Act were issued to the petitioner, again calling upon the petitioner to produce" ,,, ,

certain documents. ,,, ,

8. The petitioner claims that on 01.12.2020, the Directorate General of the Goods & Services Tax Intelligence (hereinafter referred to as the" ,,, ,

â??DGGIâ?), Regional Office, Kanpur, carried out yet another search operation on the premises of the petitioner. The said search operation was" ,,, ,

authorised by the Joint Director, DGGI, Lucknow Zonal Unit, Lucknow." ,,, ,

9. Thereafter, on 14.01.2021, the Officers of the DGGI, Delhi Zone Unit (in short, â??DZUâ?), conducted a search on the premises of the petitioner" ,,, ,

pursuant to the authorisation granted by the Additional Director, DGGI, DZU, on 13.01.2021. Summons dated 16.01.2021 were also issued by the" ,,, ,

Senior Intelligence Officer, DGGI, DZU, to the proprietor of the petitioner." ,,, ,

10. The CGST Commissionerate, Gautam Buddh Nagar, also issued summons on 01.02.2021 to the petitioner." ,,, ,

11. On 04.02.2021, the DGGI, Ghaziabad, also searched the premises of the petitioner." ,,, ,

12. The premises of the petitioner was again searched on 13.02.2021 by the DGGI, Ahmedabad Zonal Unit (in short, â??AZUâ?)." ,,, ,

13. Being aggrieved of such multiple search operations and summons being issued, the petitioner has filed the present writ petition." ,,, ,

W.P.(C) 4036/2021 ,,, ,

14. In W.P.(C) 4036 of 2021, the petitioner contends that it is a proprietorship firm and is engaged in the manufacturing of flavouring compound under" ,,, ,

the brand â??SSM Super Strongâ?; â??SSM Superâ?; â??QM-1000â?; â??QM-500â?; flavoured tobacco extract under the brand â??Azeemâ?; ,,, ,

flavoured tobacco under the brand â??TBH-300â?; â??TBH-341â?; â??Revelry-25â?; and â??Frolic-25â?. The petitionerâ?s firm is registered with ,,, ,

the GST Department, South Delhi Commissionerate." ,,, ,

15. On 04.09.2019, the Officers from the Anti-Evasion, CGST, Delhi East and South Commissionerate, carried out the search operation at the" ,,, ,

premises of the petitioner. The search warrant dated 04.09.2019 had been issued by the Joint Commissioner (AE), CGST, Delhi East" ,,, ,

Commissionerate.,,,,

16. On 27.09.2021, yet another search operation was carried out at the premises of the petitioner by the Additional Assistant Director, DGGI, AZU,",,,,

under the authorisation dated 25.09.2019 issued by the Joint Director, DGGI, AZU. On 27.09.2019, summons were also issued by the DGGI, AZU, to",,,,

the proprietor of the petitioner to appear before it on 30.09.2019. As the petitioner could not appear on the said date, another summons dated",,,,

15.10.2019 were issued by the DGGI, AZU, to the proprietor of the petitioner to appear before it on 31.10.2019.",,,,

17. The summons dated 28.11.2019 were then issued by the CGST Office, Delhi West, calling upon the Head (Manufacturing & Processing) of the",,,,

petitioner to appear on 04.11.2019, which was not possible, the date already having passed.",,,,

18. Yet another summons dated 14.02.2020 were issued by the Superintendent Central Tax, New Delhi, to the proprietor of the petitioner to appear",,,,

before it on 20.02.2020.,,,,

19. On 18.12.2020, the DGGI, AZU, again issued summons to the petitioner to appear before it on 07.01.2021.",,,,

20. The petitioner's firm registration was also cancelled on 01.03.2021.,,,,

21. Aggrieved of such repeated summons being issued by multiple agencies, the petitioner has filed the present writ petition.",,,,

PETITIONER(S) SUBMISSIONS:,,,,

22. Mr. S. Ganesh, the learned senior counsel appearing for the petitioner in W.P. (C) 2420 of 2021 and Mrs. Anjali J. Manish, the learned counsel",,,,

appearing for the petitioner in W.P.(C) 4036 of 2021, submit that issuance of such multiple summons to the petitioner(s) by multiple agencies is",,,,

violative of the mandate of Section 6(2)(b) of the CGST Act and as also the Circular dated 05.10.2018 issued by the CBEC. They submit that the",,,,

jurisdictional Commissionerate(s) of the petitioners, being situated at Gautam Buddh Nagar and South Delhi, respectively, having initiated proceedings",,,,

against the petitioners, no other Officer of the CGST has jurisdiction to proceed against the petitioners. They submit that it is only the jurisdictional",,,,

Commissionerate that has the jurisdiction to carry out the entire process of investigation, including the issuance of Show Cause Notices, adjudications,",,,,

recovery, et cetera. In this regard, they place reliance on the judgment/order of

the High Court of Gujarat, in Bhawani Textiles v. Additional Director",,,,,

General, 2020 (35) G.S.T.L. 36 (Guj.); and judgment/order dated 27.12.2019, titled Sureshbhai Gadhecha Proprietor of M/s Anmol Traders v. State of",,,,,

Gujarat, passed in R/Special Civil Application No. 23279 of 2019.",,,,,

23. They submit that the Circular dated 05.10.2018, having been issued under Section 168 of the CGST Act, is binding on the Department. In support",,,,,

of their submissions, they place reliance on the following judgments:",,,,,

a. Simplex Castings Ltd. v. Commissioner of Customs, Vishakhapatnam; (2003) 5 SCC 528;",,,,,

b. Commissioner of Customs v. Indian Oil Corporation Ltd. & Anr., (2004) 3 SCC 488;",,,,,

c. Collector of Central Excise, Vadodara v. Dhiren Chemical Industries, (2002) 10 SCC 64;",,,,,

d. UCO Bank, Calcutta v. Commissioner of Income Tax, W.B, (1999) 4 SCC 599; and",,,,,

e. Catholic Syrian Bank Ltd. v. Commissioner of Income Tax, Thrissur, (2012) 3 SCC 784.",,,,,

24. The learned senior counsel for the petitioners submits that the CGST Act does not, anywhere, refer to "investigation" or to the Officers who",,,,,

are authorised or empowered to carry out a particular investigation. The powers under the CGST Act are conferred only on "proper officer",,,,,

defined under Section 2(91) of the CGST Act. Placing reliance on Section 6(1) of the CGST, he submits that the Officers appointed by the State",,,,,

Government are also "proper officers" for the purpose of the CGST Act and, therefore, exercise all powers under the CGST Act as well. He",,,,,

submits that Section 6(2) of the CGST Act makes it clear that if the SGST Officer of the State Government has already initiated proceedings, then the",,,,,

CGST Officers cannot exercise any power on the same subject matter, which is intelligence-based enforcement action on the entire taxpayers' base",,,,,

irrespective of the administrative assignment of the taxpayer to any authority, and to the entire value-chain of the particular taxpayer.",,,,,

25. The learned senior counsel for the petitioner further submits that the Gautam Buddh Nagar Commissionerate had issued four Show Cause Notices,,,,,

to the petitioner raising numerous issues. It has raised issues with respect to the suppliers who are outside Gautam Buddh Nagar. One of the Show,,,,,

Cause Notices has even been adjudicated. He submits that in view of Section 6(2) (b) of the CGST Act and the Circular dated 05.10.2018, it would",,,,

only be the Gautam Buddh Nagar Commissionerate who would be empowered to complete the entire process of investigation, issuance of Show",,,,

Cause Notice, adjudication, recovery, filing of the appeal, et cetera. He submits that there would, in fact, be a prohibition against the GST Intelligence",,,,

Officers of AZU from carrying out this entire process in view of the Circular dated 05.10.2018.,,,,

26. Mrs. Anjali J. Manish, the learned counsel appearing for the petitioner in W.P. (C) 4036 of 2021 adopts the above arguments of Mr. Ganesh.",,,,

RESPONDENTS SUBMISSIONS:,,,,

27. On the other hand, Mr. N. Venkataraman, the learned Additional Solicitor General of India, placing reliance on the judgment dated 13.09.2021 of",,,,

the Supreme Court in Union of India v. VKC Footsteps India Pvt. Ltd., 2021 SCC OnLine SC 706, submits that the GST is a watershed moment in",,,,

the evolution of cooperative federalism. Its success depends on harmony as its source and foundation. He submits that the CGST Act; the Integrated",,,,

Goods and Services Tax Act, 2017 (hereinafter referred to as the "IGST Act"); the various States' Goods and Services Act (hereinafter",,,,

referred to as the "SGST Act"); and the Union Territory Goods and Services Tax Act, 2017 (hereinafter referred to as the "UTGST Act")",,,,

have all been passed as a virtual replica of each other for carrying out a uniform harmonised pattern. He submits that Section 6 of the CGST Act",,,,

carries forward the same intention, with the "proper officer" issuing an order under one Act being empowered to issue an order under the other",,,,

Act as well.,,,,

28. He submits that in terms of Section(s) 3 and 5 of the CGST Act and the SGST Act, the Central Government and the State Governments have",,,,

issued notifications empowering the "proper officers". By the Notification No. 02 of 2017 dated 19.06.2017, issued by the CBEC, various Central",,,,

Tax Officers have been appointed vesting them with jurisdiction on specified territories. They therefore, exercise limited territorial jurisdiction.",,,,

Whereas, vide Notification No. 14 of 2017 dated 01.07.2017, the CBEC has appointed the Central Tax Officers with All India jurisdiction. Similarly",,,,

the State Tax Officers have been appointed by the respective State Governments

giving limited territorial jurisdictions to the State Tax Officers or,,,,

vesting them with jurisdiction over the whole State. As an example, he has referred to the Notification dated 23.06.2017, issued by the Government of",,,,,

Maharashtra, separately empowering the State Tax Officers with limited territorial jurisdictions and those having jurisdiction over the whole State." ,,,,

29. Placing reliance on the above Notifications, the learned ASG submits that the all-India jurisdiction can be exercised only by a "proper officer" ,,,,

appointed as a Central Tax Officer under Notification No. 14 of 2017 and no one else. He submits that, therefore, once the proceedings have a PAN" ,,,,

India influence and involvement of more than one Commissionerate, it is only the Central Tax Officers having all-India jurisdiction, in terms of the",,,,,

Notification No. 14 of 2017, who are empowered to carry out the investigation." ,,,,

30. Referring to Section 6(2)(b) of the CGST Act, the learned ASG, submits that the same will have the full play if the proceedings do not transgress" ,,,,

the territorial jurisdiction, whereas in a case where the subject matter is of all-India jurisdiction, then only the Officers appointed under Notification No." ,,,,

14 of 2017 dated 01.07.2017 can exercise power under Section 6(2)(b) of the CGST Act and the rest have to keep away as they do not possess all- ,,,,

India jurisdiction. In this regard, he places reliance on the judgment of this Court, in National Building Construction Company Ltd. v. Union of India &" ,,,,

Ors., 2018 SCC OnLine Del 12397." ,,,,

31. On facts, in W.P.(C) 2420 of 2021, the learned ASG has placed reliance on the following chart from the common additional-affidavit filed by" ,,,,

respondent no(s). 1, 3, 4, 5 to 7 and 9, which is reproduced herein-below:" ,,,,

S. No.,"Name of authority who

conducted search",Date of search,Scope of investigation,

1.,"State GST, Gautam Buddha

Nagar, Uttar Pradesh",31.01.2020,"Several discrepancies noticed during

survey on 31.01.2020 and accordingly

Show Cause Notice in Form DRC-01

dated 03.04.2021 covering a period of

Janâ??20 to Marâ??20 was issued.

(Annexed as Annexure-â??Bâ??)",

2., "CGST, Gautam

Buddha Nagar

Commissionerate", 19.03.2020, "Reference received from Chief

Commissioner Office Meerut indicated

contravention of provisions of

Notification No. 04/2017 (Rate) dated

28.06.2017 by certain firms including

M/s

Mridul Tobie Inc. and during the

search it was revealed that they are

claiming refund of accumulated

ITC/cess on account of export.

Accordingly, searches were conducted

at the premises of Jeevantara and

others, indicated to be fake firms.

These firms were found to be issuing

fake/bogus invoices without supply of

goods for passing on fraudulent ITC.

M/s Mridul Tobie Inc. is one of the

recipient of such fake ITC generated

from such fake firms, who are found to

have claimed fraudulent refund of

accumulated ITC on account of such

fake supplies. Accordingly,

investigation against them were

initiated for the specific issue of filing

of fraudulent

refund claims.",

3., "CGST, Gautam

Buddha Nagar

Commissionerate",07.10.2020,"M/s Commodities Intertrade- GSTIN

9AFTP2263G1ZE had

applied for refund of Rs. 96,12,360/-

against export of services which was

deviating from their normal trade

business, before the CGST, Noida

Commissionerate. The service was

shown to have been procured from

M/s Mridul Tobie Inc by M/s

Commodities Inter-trade. Accordingly,

the CGST Noida commissionerate has

requested the GBN Commissionerate to

verify the facts in this regard. In

pursuance to the same the CGST GBN

Commissionerate conducted the search

at the premises of M/s Mridul Tobie

Inc. It is pertinent to mention that later

on M/s Commodities Intertrade has

reversed the entire ITC amount of Rs.

96,12,360/- vide DRC -03

dated 27.01.2021. Thus, this search

was conducted at the premises of M/s

Mridul Tobie Inc only with reference

to the refund claimed by M/s

Commodities Inter-trade, on the

strength of the invoice issued by

M/s Mridul Tobies Inc.",

4.,"DGGI, Regional Unit,

Kanpur (Under DGGI,

Lucknow Zonal Unit)",01.12.2020,"DGGI, Lucknow Zonal Unit, was investigating case against Agra based exporter M/s Snuff Exim Pvt. Ltd. for claiming refund of accumulated ITC obtained through fraudulent means. During the investigation it was found that M/s Mridul Tobie Inc was prominent supplier to the said firm. Accordingly, follow-up search was conducted at the premises of M/s Mridul Tobie Inc. by DGGI, Kanpur Regional Unit as per the directions of DGGI, Lucknow Zonal Unit.",

5.,"DGGI, Delhi Zonal Unit",14.01.2021,"Search conducted at the premises of M/s Shalimar Traders indicated, it to be a fake firm. The firm is found to be issuing fake/bogus invoices without supply of goods for passing on fraudulent ITC. M/s Mridul Tobie Inc. is one of the recipient of such fake ITC generated from the said firm. Accordingly, investigation against them were initiated for the limited issue of availment of fraudulent ITC of Rs. 5.03 crores on the basis of fake invoices issued by M/s Shalimar Traders.",

6.,"DGGI, Regional Unit, Ghaziabad (Under DGGI, Meerut Zonal Unit)",04.02.2021,"DGGI, Agra Regional Unit, was

investigating case against M/s Panchtatva Enterprise which had shown procurement of goods from M/s Snuff Exim Pvt. Ltd. and M/s Pandokhar Food LLP., Noida. These two firms had further shown the procurement of goods from M/s Mridul Tobie Inc. Accordingly, follow-up search was conducted at the premises of M/s Mridul Tobie Inc by the officers of DGGI, Ghaziabad Regional Unit, under request of DGGI, Agra Regional Unit",
7 .,"DGGI, Ahmedabad Zonal Unit",13.02.2021,"During investigation of certain non-existent/non-functional firms, viz. (1) Garuda Enterprise (GSTN- 06DWAPK4510C1Z6) (2) Shiva Enterprise (GSTN- 07BBHPS6200B1Z1) (3) Tirupati Exports (GSTN- 09CCIPP4229C1ZL) (4) Paria Trading (GSTN- 07AYGPH3832B1ZV) (5) Balaji Exports (GSTN- 09FDZPP5520H1ZT) (6) Royal Trading, Alwar (GSTN- 08DWAPK4510C1Z2) (7) Mahadev World Trade, Alwar

(GSTN- 08CAJPK8236P1ZX) etc.
were identified by the DGGI,
Ahmedabad Zonal Unit. It was found
that “Smoking mixture for pipes
and cigarettes” was one of the major
items shown as supplied in the paper
transactions by the non-existent
entities. The subject goods
“Smoking Mixture for pipes and
cigarettes”, a tobacco product falling
under CTH 24031910, is highly
sensitive from tax evasion angle as it is
subject to GST @ 28% and
Compensation Cess @ 290% (Total
318%) and any fictitious paper
transaction in
“Smoking Mixture” is highly
rewarding for availment of ITC
unlawfully. The evidences available on
record indicated a deeprooted
conspiracy by some persons who were
the masterminds behind this modus
operandi to defraud the public
exchequer. Investigations also
revealed that the petitioner firm M/s
Mridul Tobie Inc, Noida is also one of
the beneficiaries of fake ITC
generated in the name of some of the
non-existent entities by paper
transactions without corresponding

supply of goods, including
smoking mixture for pipes and
cigarettes. Further, investigation
also includes the issue of
Overvaluation and Misclassification of
the product by M/s Mridul Tobie Inc.
Remarks: During search operation, it
was observed that the goods seized by
the DGGI, Delhi Zonal Unit under
panchanama dated 14.01.2021 were
not available at the premises. This
search was conducted by DGGI,
Ahmedabad Zonal Unit with the help
of DGGI, Delhi Zonal Unit so the
officers of Delhi Zonal Unit were also
present during the said
search."

8., "M/s Mridul Tobie

Inc.", 19.02.2021, Filed WP No. 2420 of 2021,

9., "DGGI, Delhi Zonal Unit", 25.02.2021, "This second Search was conducted by
DGGI, Delhi Zonal unit to verify the
fact of non-availability of seized goods
in the premises of M/s Mridul Tobie
Inc., as noticed and recorded under
the panchanama dated 13.02.2021
drawn by the officers of DGGI,
Ahmedabad Zonal Unit. During the
course of this search, it was confirmed
that M/s Mridul Tobie Inc., had in fact
illicitly disposed off the goods seized

under panchnama dated 14.01.2021.
And in order to cover up their ill legal
act they had replaced the goods with
other illicitly procured goods.
Accordingly, the goods available as
replacement of the seized goods were
also seized by the DGGI,
Delhi Zonal Unit on 25.02.2021.",
10., "DGGI, Ahmedabad Zonal
Unit", 15.03.2021, "Search at the residential premise of
Shri Vipin Sharma, Proprietor of M/s
Mridul Tobie Inc. was conducted.
However, the said premises was found
locked and accordingly, the said
premise was sealed under
panchanama dated
15.03.2021.",
11., "DGGI, Ahmedabad Zonal Unit", 16.03.2021, "On receipt of the request letter
from Shri
Vipin Sharma, the residence was
desealed and searched in the presence
of representative of Shri Vipin Sharma
and several incriminating documents
were recovered. On completion of the
search the keys were handed over to the
said representative.",
12., "M/s Mridul Tobie
Inc.", 16.03.2021, "Filed CM no. 10506 of 2021 in WP
No. 2420 of 2021.",
13., "CGST, Gautam

Buddha Nagar

Commissionerate",17.03.2021,"Issued the Show Cause Notice No C.No.

IV (9)AE/GBN/51/2018/Pt-V

dated 17.03.2021, in respect of seizure

effected by DGGI, Delhi Zonal Unit, in

pursuance of the Interim Order dated

17.03.2021 passed by Honâ??ble Delhi

High Court in CM No. 10506 of 2021.

(Annexed as Annexure-â??Câ??)",

1,"DGGI,

Ahmedabad Zonal

Unit","DGGI/AZU/Gr-

?Aâ??/12(4)513/2020-21

Annexed as Exhibit-II",01.03.2021,"DGGI,

Ahmedabad Zonal

Unit vide its letter

dated 01.03.2021

had requested DGGI,

Delhi Zonal Unit and

DGGI, Lucknow

Zonal Unit to transfer

the investigation

being conducted by

them against M/s

Mridul Tobie Inc.

2,"DGGI","DGGI/ARU/Gr?Aâ??/Pa,09.03.2021,"In reply to the letter

of DGGI, Ahmedabad

Zonal Unit dated

01.03.2021, DGGI

Lucknow Zonal Unit

vide their letter dated
09.03.2021 &
30.07.2021 have
transferred all the
documents related to
investigation of M/s
Mridul Tobie Inc. To
DGGI,
Ahmedabad Zonal
Unit for taking
further necessary
action. Therefore, at
present, DGGI,
Lucknow Zonal unit
is not
pursuing any
investigation against
M/s Mridul Tobie Inc.
3,"DGGI, DelhiZ onal
Unit", "F. No.
DZU/INV/H/GST/06/2 021
dated 16.03.2021 Annexed
as Exhibit-IV", 16.03.2021, "In response to the
letter issued by
DGGI,
Ahmedabad Zonal
Unit dated
30.03.2021, Delhi
Zonal Unit of DGGI
vide their letter dated

16.03.2021 have transferred the investigation against M/s Mridul Tobie Inc. To DGGI, Ahmedabad Zonal Unit and stated that they will not pursue further in the matter either investigation related to fraudulent availment of ITC or seizure of goods or any other matter, including follow up action required, if any, in the case of M/s Mridul Tobie Inc. And M/s Shalimar Trades 4,"DGGI, Ahmedabad Zonal Unit","DGGI/AZU/Gr-?Aâ?/12(4)513/2020-21 Annexed as Exhibit-V",30.03.2021,"DGGI, Ahmedabad Zonal Unit vide its letter dated 30.03.2021 had proposed to

consolidate all the investigations being carried out by the concerned Zonal units of DGGI and CGST, Gautam Buddha Nagar Commissionerate at DGGI Ahmedabad Zonal Unit to redress the grievance raised by M/s Mridul Tobie Inc. In the W.P. 2420 of 2021 filed before the Honâ??ble High Court of Delhi. 5,"DGGI, Meerut Zonal Unit","DGGI/MeZU/Misc-Sharing/190/2019-20 dated 30.03.2021 Annexed as Exhibit-VI",30.03.2021,"DGGI, Meerut Zonal Unit vide their letter dated 30.03.2021 informed that they have not initiated any separate investigation against M/s Mridul Tobie Inc.

And the search was
conducted only in
relation to the
request to DGGI,
Lucknow Zonal Unit.
Presently, no
investigation against
M/s Mridul Tobie Inc.
Is pending with
DGGI, Meerut Zonal
Unit.
6,"CGST, Gautam
Buddha Nagar
Commissionerate", "C.No.
IV(9)AE/GBN/51/201
8/Pt-V dated 01.04.2021
Annexed as Exhibit- VII", 01.04.2021, "In response to the
letter issued by
DGGI,
Ahmedabad Zonal
Unit dated
30.03.2021,
CGST, Gautam
Buddha Nagar
Commissionerate vide
their letter dated
01.04.2021 have
shown their inability
to conduct
investigation against

M/s Mridul Tobie
Inc., as its buyers
and suppliers are
located beyond their
jurisdictions.

Therefore, for the
comprehensive
investigation against
M/s Mridul Tobie Inc.

In respect of all the
aspects, viz.

Availment of
ineligible ITC,
valuation, business
model etc. They have
requested DGGI,
AHMEDABAD
ZONAL UNIT to
conduct the
investigation against
M/s Mridul Tobie Inc.

effect from the date recommended by the Goods and Services Tax Council.â???,

38. The Supreme Court in VKC Footsteps India Pvt. Ltd. (supra) highlighted the
changes brought about by Article 246A of the Constitution, in the",

following words:,,,

â??34. Article 246A has brought about several changes in the constitutional
scheme:,,,

(i) Firstly, Article 246A defines the source of power as well as the field of
legislation (with respect to goods and services tax) obviating the",

need to travel to the Seventh Schedule;,,,

(ii) Secondly, the provisions of Article 246A are available both to Parliament and

the State legislatures, save and except for the exclusive",,,,

power of Parliament to enact GST legislation where the supply of goods or services takes place in the course of inter-State trade or,,,

commerce; and,,,,

(iii) Thirdly, Article 246A embodies the constitutional principle of simultaneous levy as distinct from the principle of concurrence." ,,,,

Concurrence, which operated within the fold of the Concurrent List, was regulated by Article 254.â??",,,,

39. The other significant change is brought by the One Hundred and First Amendment to the Constitution is the composition of the Goods and Services,,,,

Tax Council (hereinafter referred to as the â??GST Councilâ?). Sub-clause (2) of Article 279A of the Constitution sets out the composition of the,,,,

GST Council, as under:" ,,,,

â??279A. Goods and Services Tax Council.â?"â?" ,,,,

xxxxx,,,,

(2) The Goods and Services Tax Council shall consist of the following members, namely:â?"â?" ,,,,

(a) the Union Finance Minister... Chairperson;,,,,

(b) the Union Minister of State in Charge of Revenue or Finance... Member;,,,,

(c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government... Members.â?? ,,,,

40. Sub-clause (6) of Article 279A of the Constitution highlights the objects of the Amendment, wherein it provides that the GST Council shall be" ,,,,

guided by the need for a harmonised structure of the GST and the development of a harmonised national market for the goods and services.,,,,

41. The Supreme Court in VKC Footsteps India Pvt. Ltd. (supra) captured the object of Article 279A of the Constitution, as under:" ,,,,

â??39. Article 279A(6) indicates that in the discharge of its functions, the GST Council is to be guided by the need for a harmonised" ,,,,

structure of goods and services tax and the development of a harmonised national market for goods and services. This emphasis on,,,,

harmony is crucial to co-operative federalism. It underscores that in a federal arrangement where the States and Union are converging,,,,

together for the first time to adopt the same event for taxation, both sets of

partners must be guided by the over-arching need to preserve" ,,,,

harmony. Harmony postulates balance, an acceptance of mutual co-existence. Clauses (7) to (11) of Article 279A contain provisions for" ,,,,

quorum, procedure and voting. Clause (9) is a clear indicator of the absence of supremacy either of the Union or the States. Under sub" ,,,,

clause (a) of Clause 9, the vote of the Union Government is to have a weightage of one- third of the total votes cast, while the votes of all" ,,,,

the State Governments together are to have a weightage of two-thirds of the total votes cast. Every decision of the Council is to be taken by ,,,,

a majority of not less than three-fourths of the weighted votes of the members present and voting. The principle of harmony does not ,,,,

postulate exact coincidence in all points of comparison or reference. Harmony is a postulate of cooperative federalism and is founded on ,,,,

the principle of mutual coexistence, deference and equality of the coexisting units.â??" ,,,,

42. Exercising power under Article 246A of the Constitution, the CGST Act, UGST Act and the IGST Act have been promulgated by the Parliament." ,,,,

We are informed that various State Governments have also promulgated the SGST Act, provisions of which are almost pari materia to the CGST Act." ,,,,

43. Various powers, like under Section 67 (Power of inspection, search and seizure); Section 70 (power to summon persons to give evidence and" ,,,,

produce documents); Section 73 (Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for ,,,,

any reason other than fraud or any wilful misstatement or suppression of facts); and Section 74 (Determination of tax not paid or short paid or ,,,,

erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of facts) etcetera," ,,,,

have been bestowed by the CGST Act on the â??proper officerâ?. Similar vesting of power is made in favour of â??proper officerâ? under the ,,,,

SGST Act(s). ,,,,

44. â??Proper Officerâ? is defined in Section 2 (91) of the CGST Act, as under:" ,,,,

â??(91) â??proper officerâ? in relation to any function to be performed under this Act, means the Commissioner or the officer of the" ,,,,

central tax who is assigned that function by the Commissioner in the Board;â?? ,,,,

45. Section(s) 3 and 4 of the CGST Act provides for the classes of Officers that may be appointed by the Government and/or by the Central Board of,,,,

Indirect Taxes and Customs (hereinafter referred to as the "CBIC").,,,,

46. Section 5 of the CGST Act inter alia states that the Officers of the Central Tax may exercise the powers and discharge the duties conferred upon,,,,

them under the CGST Act.

47. In exercise of power under Section 3 read with Section 5 of the CGST Act and Section 3 of the IGST Act, the CBEC has, vide Notification No."

2/2017 dated 19.06.2017, empowered a number of Officers with limited territorial jurisdiction over various areas of the country."

48. By the Notification No. 14/2017 dated 01.07.2017, the CBEC has appointed the Officers in the Directorate General of Goods and Services Tax"

Intelligence (DGGI), Director General of Goods and Service Tax (DGGST), and Director General of Audit (DG Audit) as the Central Tax Officers"

and conferred on them the powers extended throughout the territory of India.

49. Therefore, by way of the above two Notifications, there are Central Tax Officers who are empowered to exercise all-India jurisdiction and those"

who enjoy the limited territorial jurisdiction.

50. We are informed that similarly, various State Governments have issued Notification under pari materia provisions of the SGST Act(s), empowering"

the State Tax Officers to exercise powers over limited territorial jurisdiction within the State and those having powers throughout the territory of the"

States.

51. This leads to a situation where for an entity/taxpayer in a particular jurisdictional area, let's say Gautam Buddh Nagar, there would be a Central"

Tax Officer having territorial jurisdiction and there would also be a State Tax Officer having territorial jurisdiction. There would also be a Central Tax"

Officer who would have jurisdiction over such an entity as such officer exercises pan-India jurisdiction"

52. We are further informed that for administrative purposes, a taxpayer in a particular area is assigned to the Central Tax Officer or the State Tax"

Officers exercising jurisdiction over that particular area. For example, in the W.P. (C) 2420 of 2021, the petitioner has been assigned the SGST"

Commissionerate of Gautam Buddh Nagar, while in W.P.(C) 4036 of 2021, the petitioner has been assigned to SGST Commissionerate, South Delhi."

53. There would, however, also be a Central Tax Officer having territorial jurisdiction over the area where the taxable entity is located. There would",,,,,

also be a transaction having both CGST as also SGST component/implication.,,,,,

54. To achieve the goal of harmonized goods and service tax structure and in the spirit of cooperative federalism, Section 6(1) of the CGST Act and",,,,,

pari materia provisions in the SGST Act provide for cross-empowerment of the Central Tax Officers and the State Tax Officers.,,,,,

54. Section 6 of the CGST Act is reproduced herein below:,,,,

â??6. Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances.â?"â?" (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 subsection (1),â?"â?"",,,,,

(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.â??",,,,,

55. Sub-clause (1) of Section 6 of the CGST Act provides for the cross empowerment of the Officer appointed under the SGST Act or the UTGST,,,,

Act as a â??proper officerâ? for the purpose of the CGST Act. We are informed that pari materia provisions of cross empowerment of the Central,,,,

Tax Officer are contained in the various SGST Act(s).,,,,

56. Sub-section (2)(a) of Section 6 of the CGST Act provides that where a â??proper officerâ? issues an order under the CGST Act, he shall also",,,,

issue an order under the SGST Act and the UTGST Act, as the case may be.",,,,

57. Sub-section 2(b) of Section 6 of the CGST Act further states that where the â??proper officerâ? under the SGST Act or the UTGST Act has,,,,

initiated any proceedings on the subject matter, no proceedings shall be initiated by the â??proper officerâ? under the CGST Act on the same subject",,,,

matter.,,,,

58. We are informed that similar provisions in the reverse are contained in the various SGST Act(s), with the State Tax Officer being required to pass",,,,

an order under the CGST Act while passing an order under the SGST Act, and being prohibited from initiating any proceedings on the subject matter",,,,

on which the Central Tax officer has already initiated some proceeding.,,,,

59. Section 6 of the CGST Act is clearly guided by the object of providing a common national market of goods and services and to eliminate the,,,,

subjection of the taxpayers to multiple jurisdictions. It aims to provide protection to the taxpayers against being subjected to multiple agencies for the,,,,

same set of transactions, at the same time empowering the Officers under the CGST Act or the SGST Act or the UTGST Act to pass a",,,,

comprehensive order and take action, keeping in view and extending to the other Acts. There should, therefore, be only one order insofar as the tax",,,,

entity is concerned.,,,,

60. To give effect to the above intent, Section 6(2)(b) of the CGST Act states that where the proper officer under the SGST Act or the UTGST Act",,,,

has initiated any proceedings on a subject matter, the Central Tax Officer shall not initiate proceedings on the same subject matter. Clearly the intent",,,,

being that as the State Tax Officer is empowered to pass an order even under the CGST Act, there is no occasion for the Central Tax Officer to",,,,

initiate parallel proceedings on the same subject matter.,,,,

61. As stated hereinabove, Section 6 of the CGST Act is intended to give the effect of harmonious convergence of the States and the Union for the",,,,

same event for taxation.,,,,

62. The above intent is further sought to be effectuated by the Circular dated

05.10.2018 issued by the CBEC. The same reads as under:,,,,

â??D.O.F.No. CBEC/20/43/01/2017-GST (Pt.),,,,,

Dated 5th October, 2018",,,,,

Dear Colleague,",,,,

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 9th meeting held on 16.01.2017 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:-,,,,

â??viii. Both the Central and State tax administrations shall have the power to take intelligence-based enforcement action in respect of the,,,,

entire value chainâ?',",,,,

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 taxpayerâ??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.,,,,,

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

With best Wishes,",,,,

Your Sincerely," ,,,,

(Mahender Singh),,,,

To,,,,

All Principal Chief Commissioners/ Chief Commissioner of Central Tax/ Principal Directors General/ Directors Generalâ?? ,,,,

63. The above Circular is intended to give effect to the mandate of Section 6 of the CGST Act and the pari materia provisions in the State Act(s). It,,, ,

states that the mandate of Section 6 shall apply even to the â??intelligence based enforcement actionâ?. It clarifies that the Central Tax Officers as,,, ,

also the State Tax Officers are authorized to initiate intelligence based enforcement action on the entire taxpayerâ?s base â??irrespective of the,,, ,

administrative assignment of the taxpayer to any authorityâ? and that the authority which initiates such action is empowered to complete the entire,,, ,

process of investigation, issuance of Show Cause Notice, adjudication, recover, etcetera. It further clarifies that even though the taxpayer may be" ,,,, ,

administratively assigned to the other authority- State or Centre as the case maybe, the officer initiating â??intelligence based enforcement actionâ?" ,,,, ,

need not transfer the said case to the authority otherwise having administrative assignment over the taxpayer.,,,, ,

64. The above Circular is one example where Section 6 shall have its full play. In terms of Section 6(1), the State or the Central Tax Officer as the" ,,,, ,

case maybe, is also authorised to act as the â??proper officerâ? for the purposes of the other Act- CGST or the SGST Act as the case maybe." ,,,, ,

Therefore, when such officer initiates â??intelligence based enforcement actionâ?, he acts and is empowered to so act not only under the CGST Act" ,,,, ,

but also under the SGST or the UGST Act. In terms of Section 6(2)(a), he has to pass a comprehensive order, both under the CGST and the" ,,,, ,

SGST/UGST Act. In terms of Section 6(2)(b), as he has initiated â??intelligence based enforcement actionâ?, the other jurisdiction officer must hold" ,,,, ,

his hands and the officer initiating such â??intelligence based enforcement actionâ? need not transfer the case to the jurisdiction officer to whom,,, ,

otherwise the taxpayer is administratively assigned.,,,, ,

65. As noted hereinabove, it is on the basis of the above Circular that the learned senior counsel for the petitioner has vehemently submitted that as" ,,,, ,

the â??intelligence-based enforcement actionâ? has been initiated by the Officer

of the State Tax Authorities, they are to complete the entire process",,,,,

of investigation and take it to its logical conclusion without transferring the same to the Central Tax Officer.,,,,

66. A bare reading of Section 6 of the CGST and the abovementioned Circular, on first blush, supports the interpretation put forth by the learned",,,,,

senior counsel for the petitioners. However, in our opinion, neither Section 6 of the CGST Act nor the Circular dated 05.10.2018 is intended to nor can",,,,,

be given an overarching effect to cover all the situations that may arise in the implementation of the CGST and the SGST Acts. The Circular cannot,,,,,

be extended to cover all and myriad situations that may arise in the administration and the functioning of the GST structure, now being governed by the",,,,,

CGST Act; the SGST Act; the UTGST Act; and the IGST Act. Section 6 of the CGST Act and the above said Circular clearly has a limited,,,,,

application, which is of ensuring that there is no overlapping exercise of jurisdiction by the Central and the State Tax Officers. It is to bring harmony",,,,,

between the Centre and the State in the implementation of the GST regime, with the two not jostling for jurisdiction over a taxpayer. It is, however, not",,,,,

intended to answer a situation where due to complexity or vastness of the inquiry or proceedings or involvement of number of taxpayers or otherwise",,,,,

one authority willingly cedes jurisdiction to the other which also has jurisdiction over such inquiry/proceedings/taxpayers.,,,,

67. Neither Section 6 of the CGST Act nor the SGST Act nor the Circular dated 05.10.2018, therefore, apply to the fact situation presented by the",,,,,

two petitions before us as they do not operate and are not intended to operate in a situation where the "intelligence based enforcement action" has,,,,,

repercussion or involvement of taxpayers beyond the territorial jurisdictional limit of the officer initiating such an action. It also does not address a,,,,,

situating where two or more Officers, may be Central or State or only Central or State, initiate separate "intelligence based enforcement action",,,,,

but having a common thread or involvement of multiple taxpayers, like a case of conspiracy. In the first case, the officer initiating the "intelligence",,,,,

based enforcement action" cannot travel beyond his territorial jurisdiction. To strictly enforce Section 6 and the abovementioned Circular would,,,,,

therefore, lead to compelling such officer to restrict his investigation and findings and resultant action only to the taxpayer within his territorial",,,,,

jurisdiction, thereby leading to an incomplete and inconclusive investigation/ action. In the abovementioned second scenario, as all officers who have",,,, initiated intelligence based enforcement action are otherwise having jurisdiction over the taxpayer, strictly enforcing the mandate of Section 6",,,, and the abovementioned Circular, will on the one hand subject the taxpayer to multiple action(s) (which is completely contrary to the intent of the Act",,,, as noted hereinabove), while on the other hand lead to multiple authorities expending their time, energy and resources investigating the same",,,, intelligence input, maybe even reaching to conflicting findings. It is settled principle of interpretation of statute that the court must adopt",,,, construction which will ensure smooth and harmonious working of the statute and eschew the other which will lead to absurdity or give rise to",,,, practical inconvenience or friction or confusion in the working of the system. {Refer: State of Punjab v. Ajaib Singh & Anr., AI 1953 SC 10; Collector",,,, of Customs, Baroda v. Digvijaysinhji Spinning & Weaving Mills Ltd., AIR 1961 SC 1549}",,,,

68. As is evident from the narration given in the additional-affidavit and the counter-affidavit in the two writ petitions, various jurisdictional tax",,,,

Authorities have conducted an intelligence-based investigation into the entities within their respective territorial jurisdiction. The petitioners, however",,,,

during the course of such investigation, appeared as a common link. If the strict interpretation as contended by the learned senior counsel for the",,,,

petitioners is to be accepted, each of these different jurisdictional State or Central Authorities would carry out their independent investigation to their",,,,

logical conclusion. This may not only make a taxpayer liable to face multiple investigations and proceedings, which is, in fact, the complaint with which",,,,

the petitioners first approached this Court, but may also lead to such jurisdictional authorities reaching a contradictory conclusion on their respective",,,,

investigations. It would defeat the very object of Section 6 and the harmonious structure that the GST regime seeks to bring about.",,,,

69. In the present set of writ petitions, the respondents have explained that to bring investigation under one umbrella, the DGGI AZU sought transfer",,,,

of investigations being carried out by different Commissionerate(s) to itself. This was acceded to by each Commissionerate in both the writ petitions.",,,,

We have not been shown any prohibition in the CGST Act or the SGST Act to

such transfer of investigation. Neither it has been contended that the DGGI, AZU, would otherwise lack jurisdiction to carry out an investigation against the petitioners. It is not denied by the petitioners that the DGGI, AZU has a pan-India jurisdiction. DGGI, AZU would, as Central Tax Officer and in compliance with the mandate of Section 6 of the CGST Act and the SGST Act, have to pass comprehensive order, both under the CGST Act as also the SGST Act.

70. We, therefore, find that the Circular dated 05.10.2018 has no application to the peculiar facts in the present set of writ petitions.

71. The judgment of the High Court of Gujarat in Bhawani Textile (supra) is also not applicable to the facts in the present set of writ petitions. In fact, the said judgment itself records and clarifies that it has not expressed any opinion on the merits of the case. We quote paragraphs no. 6 and 7 of the said judgment, as under:

6. Thus, it appears that by way of instructions, it is clarified that if an officer of the Central tax authority initiates intelligence based

enforcement action against a taxpayer administratively assigned to the State tax authority, the officers of the Central tax authority would

not transfer the said case to its State tax counterpart and would themselves take the case to its logical conclusions. In the case on hand,

there is nothing on record to indicate that the officer of the Central tax authority has transferred the case of the writ applicant to any other

authority of the State. However, it appears that although the action was undertaken under Section 67 of the Act by the DGGI, AZU, yet the

two summons came to be issued : one by the Deputy Commissioner of State Tax and another by the DGGI, Surat.

7. We dispose of this writ application with a direction to the DGGI, AZU, Ahmedabad to look into the matter and ensure that no undue

harassment is caused to the writ applicant by different authorities on the same subject matter. We clarify that we have otherwise not

expressed any opinion on the merits of the case. We dispose of this writ application with the limited observations. Direct service is

permitted.

(Emphasis supplied)

72. The High Court of Gujarat in the above judgment, therefore, did not have the

occasion to consider the ambit and scope of the Circular dated" ,,,,

05.10.2018.,,,,

73. The reliance placed by the petitioners on the Order of the High Court of Gujarat, in Sureshbhai Gadhecha Proprietor of M/s Anmol Traders" ,,,,

(supra), is ill-founded as that was only an order issuing notice on the petitions and not a judgment of the Court." ,,,,

74. As far as the submissions of the learned senior counsel of the petitioners on the binding effect that the Circular dated 05.10.2018, as we have held" ,,,,

that Circular dated 05.10.2018 is not applicable to the facts of the present set of petitions, we need not delineate on the said issue any further." ,,,,

75. At this stage, however, we may note the submissions of the learned ASG to the effect that all-India jurisdiction can be exercised only by a Central" ,,,,

Tax Officer appointed as a â??proper officerâ? under Notification No. 14 of 2017 dated 01.07.2017. We are not agreeable to such an argument ,,,,

without limitation. In the course of investigating of a tax entity, a situation may arise where the investigation may have to be carried out from entities" ,,,,

which are not within the territorial jurisdiction of the Officer appointed under the Notification dated 19.06.2017 and/or such State Notifications ,,,,

appointing an Officer with the limited territorial jurisdiction. It cannot be said that in every such case, the â??proper officerâ? having limited territorial" ,,,,

jurisdiction must transfer the investigation to the â??proper officerâ? having pan India jurisdiction. In our opinion, it would depend on the facts of each" ,,,,

case as to whether such transfer is warranted or not. To lay down the indefeatable rule in this regard may not be feasible or advisable, and certainly" ,,,,

not acceptable. ,,,,

SUMMARY OF FINDINGS: ,,,,

76. In the facts of the present case, we find that the investigations were initiated by various jurisdictional authorities against different entities. As" ,,,,

contended by the respondents, as common thread were allegedly found in these investigations, the same have been transferred to DGGI, AZU to be" ,,,,

brought under one umbrella. We also find that in the CGST Act there is no prohibition to such transfer. Section 6(2)(b) of the CGST Act has limited ,,,,

application and therefore, is not applicable to the facts of the present petitions. Similarly, the Circular dated 05.10.2018 also has no application to the" ,,,,

facts of the present petitions. ,,,,

RELIEF:,,,,

77. In view of the above, we find no merit in the present writ petitions. The same are accordingly dismissed. There shall be no order as to costs.",,,,

CONT. CAS(C) 751/2021,,,,

78. Insofar as the Contempt Case (C) 751 of 2021 is concerned, no submissions have been made by either party before us during the course of the",,,,

hearing. The same is also accordingly dismissed.,,,,