

No Proceedings can be initiated under SGST If Proceedings already pending under CGST Act: Calcutta High Court

Fact of the Case

The petitioner Company, Raj Metal Industries contended that in terms of clause (b) of sub-section (2) of section 6 of the WBGST ACT, where a proper officer under Central Goods and Services Tax Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by the proper officer under that Act on the same subject matter.

The petitioner while relying on a notification dated 05.10.2018 issued by the Central Board of Indirect Taxes and Customs (CBIC), argued that 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 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.

Decision of the Case

The single judge bench of Justice quashed the proceedings initiated by the West Bengal GST authorities by considering the fact that the matter is already pending before the CGST authorities.

The court while staying the summons and further proceedings by the State department, held that the summons that have been issued on October 19, 2020 by the State GST is, prima facie, in violation of Section 6(2)(b) of the WBGST Act.

The court added, "Upon due consideration, I am of the view that the summons that have been issued on October 19, 2020 by the State GST is, prima facie, in violation of Section 6(2)(b) of the WBGST Act. Accordingly, I direct the stay of the above summons and any proceedings there under".

The Calcutta High Court held that proceedings cannot be initiated under State Goods and Service Tax if proceedings are already pending under Central Goods and Service Tax Act.