

# TAX INFO

S. No. 031 Dated 17.04.2023

Latest update on GST Law: **Reply to SCN is mandatory to drop parallel proceedings initiated on grounds already mentioned in earlier issued SCN as given in judgement by Madras High Court.**

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<b>Name of Petitioner</b>	M/s.VGN Projects Estates Private Limited
<b>Name of Respondent</b>	Assistant Commissioner (State Taxes)
<b>Authority</b>	Madras High Court
<b>Date of Judgement</b>	30.01.2023
<b>Appeal No.</b>	W.P.No.2391 of 2023

## **Brief Facts of the Case Law:**

The impugned SCN in DRC-01 dated 21.10.2022 was issued in consequence of proceedings initiated without jurisdiction in violation of the laid down by Section 6(2)(b) of the TNGST Act, 2017. The petitioner has challenged the impugned SCN on the ground that the same has been issued in violation of Section 6(2)(b) of the TNGST Act, 2017. A similar SCN was issued by the Central Authority under CGST Act, 2017 on 29.07.2022 against the petitioner, involving the very same defects and therefore, as per the provisions of Section 6(2)(b) of the TNGST Act, 2017 when the proper officer under the CGST Act has already initiated any proceedings against the petitioner on the very same subject matter, no proceedings shall be initiated by the proper officer under the provisions of the TNGST Act, 2017.

## **Contention of the Department:**

As per the written instructions, a detailed reply has not been sent by the petitioner to impugned SCN. In written instructions, it is also stated that if petitioner submits the same then accordingly those similar defects for which notice has been issued by the Central Authority will be omitted and action shall be in respect of the balance defects alone.

## **Contention of the Petitioner:**

The defects pointed out in the SCN issued by the Central Authority and the defects pointed out under the impugned SCN by the State Authority are one and the same and therefore, as per the provisions of Section 6(2)(b) of the TNGST Act, 2017, no fresh proceedings can be initiated against the petitioner under the said Act with regard to the very same subject matter. Admittedly, a challenge has been made only to the SCN.

## **Findings and Decision of the Court:**

The Court is of the considered view that necessarily the petitioner will have to submit a detailed reply to the impugned SCN to the Department to enable them to consider the petitioner's grievance that no fresh proceedings can be initiated against them under the TNGST Act, 2017, in view of the fact that the Central Authority has already initiated action against the petitioner for the very same subject matter.

The only limited relief that can be granted to the petitioner is to permit them to file a detailed reply to the impugned SCN, stating all their objections that have been raised in this Writ Petition including the objection with regard to Section 6(2)(b) of the TNGST Act, 2017 and on receipt of the said reply, a direction can be issued to the Department to consider the said reply on merits and in accordance with law.

Thus, the petitioner was directed to submit a reply to the impugned SCN within a period of 3 weeks from the date of receipt of a copy of this order and on receipt of the said reply, the Department shall pass final orders on merits and in accordance with law, after giving due consideration to the objections raised by the petitioner in the reply, within a period of 4 weeks thereafter.

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