

**29.6.2021**  
**ks**

**WPA 8142 of 2021**

MRS Realty Private Ltd. & Anr.  
Vs.  
Union of India & Ors.

Mr. Vinay Shraff,  
Mr. Himangshu Kumar Ray  
... For the Petitioners.  
Mr. V. Kundalia  
... For the Respondent Nos. 2,4,5 & 6.  
Mr. Anirban Roy  
Mr. Jishnu Chowdhury,  
Md. T.M. Siddiqui,  
Mr. Debasish Ghosh,  
... For the State.

Heard learned Counsel for the petitioners as well as learned Counsel for the respective respondents.

The petitioners have raised several legal issues in this writ petition, inter alia, making prayer for quashing the proceeding initiated by the respondent Nos. 2, 5 and 6 and challenging the Constitutional validity of Rule 86A CGST Rules/WBGST and for reading down Section 16(2)(c) of the CGST Act/WBGST Act.

Considering the submission of the parties, I am of the view that issues raised in this writ petition cannot be adjudicated without calling for affidavits. Since the Constitutional validity of both Central and State Act has been challenged, the petitioners have to serve notice upon the Attorney General of India as well as

Advocate General of the State of West Bengal. The interim orders as prayed for by the petitioners is same as final relief, which according to this court cannot be granted at the motion stage and furthermore, quashing of the proceedings also cannot be done at the motion stage. It is also settled position of law that every piece of legislation is presumed to be legal and valid so long it is not declared invalid by any court of law.

Considering this fact, I am not inclined to pass any interim order at this stage and any action taken against the petitioners during the pendency of the writ petition will abide by the result of the writ petition.

The respondents are directed to file affidavit-in-opposition within four weeks. Reply thereto, if any, may be filed by the petitioners within two weeks thereafter.

Matter to appear in the list for final hearing after eight weeks.

Liberty to mention.

**( Md. Nizamuddin, J. )**

WWW.LIVELAW.IN<sup>3</sup>