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**W.P.A. 1629 OF 2021**

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(Through Video Conference)

**Raj Metal Industries & Anr.**

**Vs.**

**Union of India & Ors.**

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Mr. Vinay Shraff  
Mr. Himangshu Kr. Ray  
Mr. Rowsan Kr. Jha.

... For the Petitioners

Mr. Y. J. Dastoor  
Mr. Vipul Kundalia  
Mr. Siddhartha Lihiri.

... For the UOI

Mr. Abhratosh Majumdar  
Md. T. M. Siddiqui  
Mr. Avra Mazumder.

....For the Respondents  
/State.

Mr. Somnath Ganguly  
Ms. Manasi Mukherjee  
Ms. Priyamvada Singh  
Ms. Sabnam Basu.

....For the Respondent  
No. 4.

This is an application under Article 226 of the Constitution of India wherein the writ petitioners have challenged the **vires of Rule 86A of the CGST Rules/WBGST Rules and Section 16(2)(c)** of the CGST Act/WBGST Act.

The writ petitioners further challenge the actions initiated by the **State GST authorities with respect to summons issued on October 19, 2020.**



The petitioners also challenge the blocking of the electronic credit ledger that was done on December 8, 2020.

Mr. Vinay Shraff, counsel appearing on behalf of the petitioners submits that the proceedings were pending under the CGST Act and therefore, no proceedings could have been initiated by the State GST. He relies on Sub-Section 2(b) of Section 6 of the West Bengal GST Act to indicate that when a proceeding has been initiated by the Central authorities, the State cannot step into the same. On the same ground, he challenges the blocking of the credit ledger. He has further relied on a Circular issued by the Ministry of Finance, Department of Revenue, dated October 5, 2018 to buttress his argument.

I have heard Mr. Dastoor, learned Additional Solicitor General, appearing on behalf of the Union of India, Mr. Abhratosh Majumdar, learned Additional Advocate General, appearing on behalf of the State CGST and Mr. Somnath Ganguly, learned counsel appearing on behalf of the CGST. 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 stay of the above summons and any proceedings thereunder.



With regard to blocking of the electronic credit ledger, Mr. Majumdar has submitted that this action has been taken by the State authorities acting as an agent of the Central authorities and is not a 'proceeding' as indicated in Section 6(2)(b) of the WBGST Act.

As the *vires* of Rule 86A of the CGST Rules/WBGST Rules and Section 16(2)(c) of the CGST Act/WBGST Act is under challenge, affidavits are required to be exchanged in this matter. Accordingly, affidavits-in-opposition be filed within four weeks; reply thereto, may be filed within two weeks thereafter.

I make it clear that the order, passed above, shall not preclude the Central GST authorities to proceed in accordance with law and to continue with any proceedings that have been initiated by them.

The matter is directed to appear after completion of exchange of affidavits in this matter.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

**(Shekhar B. Saraf, J.)**