

**11.04.2023**

Sl no. 35

Ct no. 2

P.M.

**WPA 7189 OF 2023**

**M/s. Siddha Real Estate Development  
Private Limited & Anr.**

**- Vs -**

**National Anti-Profiteering Authority & Ors.**

Ms. Sweta Mohanty

... for the petitioner

Mr. Anirban Ray, Ld. Govt. Pleader

Md. T. M. Siddiqui,

Mr. S. Mukherjee,

Mr. V. Kothari

... for the State.

Mr. K. K. Maiti,

Mr. Tapan Bhanja

... for CGST authorities

Mr. Asok Kumar Chakraborti

Ld. Additional Solicitor General

... for Union of India

Affidavit of service filed in Court is kept with the record.

Heard learned advocates appearing for the parties.

By this writ petition petitioner has challenged the constitutional validity of Section 171 of the GST Act and the Rules contained in Chapter XV of the GST Rules relating to anti profiteering and also for relief against the impugned order dated 30<sup>th</sup> September, 2022 by quashing the same, by filing this writ petition after six months from passing the aforesaid impugned order dated 30<sup>th</sup> September, 2022 passed by the National Anti-Profiteering

authority under the CGST Act 2017. Petitioner insists for stay of the impugned order dated 30<sup>th</sup> September, 2022. First of all I am of the view that there could not be any urgency for granting any interim order since the petitioner was sitting over the aforesaid impugned adjudication order for the last six months. Secondly it is a well established principle of law that every piece of legislation should be treated as a valid piece of legislation till the same is declared unconstitutional by any court of law and every action taken under such law should be deemed to be valid by an authority so long it is not declared unconstitutional. Since the constitutional validity of the aforesaid provisions of law has been challenged, this writ petition being WPA 7189 of 2023 is entertained. However, I am not inclined to grant any interim order of stay of the aforesaid impugned adjudication order dated 30<sup>th</sup> September, 2022 in view of the facts and circumstances of this case as appears from record and by considering the submission of the parties.

Learned Additional Solicitor General submits that the nature of relief asked for the petitioner, if granted would amount to final relief and allowing the writ petition itself.

Let the respondents file affidavit-in-opposition within four weeks, petitioners to file reply thereto, if any, within two weeks thereafter.

List this matter for final hearing in the monthly list of July, 2023.

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