

S/L 19  
19.02.2020  
Ct. No. 23  
SD

W.P. 11919 (W) of 2019

Magma Housing Finance Ltd.  
Vs.  
Union of India & Ors.

*Mr. J.K. Mittal*  
*Mr. Paritosh Sinha*  
*Mr. Amitava Mitra*  
*Mr. Parag Chaturvedi*

*... for the Petitioner.*

*Mr. Sahasrangshu Bhattacharjee*  
*Mr. Sujit Mitra*

*... for the Union of India.*

*Mr. Amitabrata Roy*  
*Mr. Bhaskar Prosad Banerjee*

*... for the Respondent Nos.2 & 3.*

1. After hearing the matter at length, I am of the view that the respondents should be allowed to file affidavits in this matter.
2. Accordingly, let affidavit-in-opposition be filed within six weeks, reply thereto, if any, two weeks thereafter.
3. Counsel appearing on behalf of the respondent authorities has placed reliance on a coordinate Bench judgment of the Calcutta High Court in *M/s. Gitanjali Vacationville Privat Limited & Anr. vs. The Union of India & Anr. in W.P. 380(W) of 2019* wherein the Court had refused to pass any interim order.
4. It has been brought to my notice that particular coordinate Bench judgment of Calcutta High Court was referred to by the Division Bench of the Jharkhand High Court wherein Aniruddha Bose, CJ had specifically referred to the order passed and differed from the same.
5. Paragraph 9 and 10 of the said order are delineated below:-

*“8. On the question as to whether the fresh proceeding is permissible or not upon omission of the said statute, the controlling part appears under the said sub-clause in the following phrase:*

*“.....may be instituted, continued or enforced.”*

*Of the three situations contemplated in that phrase, the expression which comes for interpretation is “may be instituted”. The question is whether such institution ought to have taken place before the omission of the statute and subsequent to introduction of the saving provision. There are two interim orders*

passed by the Hon'ble High Courts of Gujarat and Delhi. In the case of **OWS Warehouse Services LLP Versus Union of India [R/Special Civil Application No. 16226 of 2018]**, in a similar situation, the order impugned therein has been stayed at ad interim stage. The Hon'ble Delhi High Court in the case of **M/s T.R. Sawhney Motors Pvt. Ltd. Versus Union of India and another [W.P.(C) 2138/2019 & CM Appl. No. 10002/2019 (stay)]** has also passed an interim order in favour of writ petitioner in a similar situation.

**9.** In our prima facie view, the expression "instituted" in sub-clause (e) would imply the proceeding which stood already instituted at the time of repeal or omission of the 1994 Act.

**10.** In such circumstances, we choose to follow the course taken by the Hon'ble High Courts of Gujrat and Delhi and direct status quo to be maintained till the next date of hearing so far as the proceeding which form the subject matter of the present writ petition is concerned."

6. Considering the submissions made by all the parties, and the orders placed before me in relation to stay of similar notices of audit by the different High Courts (*M/s. T.R. Sawhney Motors Pvt. Ltd. vs. Union of India & Anr. in WP (C) 2138 of 2019*, *M/s. Services International Limited vs. Union of India & Anr. in WP (C) 2479 of 2019*, *M/s. Sulabh International Social Service Organization, (Jharkhand State Branch) vs. The Union of India & Ors. in W.P. (T) No.1599 of 2019*, *OWS Warehouse Services LLP vs. Union of India reported in 2018(19) GSTL 27 (Guj.)*, *M/s. Koenig Solutions Pvt. Ltd. vs. Union of India & Ors. in W.P. (C) 5928 of 2019* and *Solvina India Pvt. Ltd. vs. Union of India & Ors. in W.P. (C) 9264 of 2019*), I am of the prima facie view that the impugned notices dated December 13, 2018 and April 25, 2019 should be stayed till *June 12, 2020* or until further orders whichever is earlier.

7. Let the matter appear in the combined monthly list for the month of *June 2020* under the heading '*Hearing*'.

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