

**GIB/DL/DEVENDRA DWIVEDI/07.01.2021/SC-25**

**Supreme Court Category :** REMEDY

**State :** Delhi

**Order No.:** GIB/DL/DEVENDRA DWIVEDI/07.01.2021/SC-25

**Name of Entry :**  
DEVENDRA DWIVEDI

**Date :** 07-01-2021

**Breif Issue :**

**FACTS AND ISSUE OF THE CASE:**

Mr Mukul Rohatgi, learned Senior Counsel appearing on behalf of the petitioners, seeks the permission of the Court to withdraw the petitions with liberty to move the High Court in appropriate proceedings.

Invoking the jurisdiction of this Court under Article 32 of the Constitution, the reliefs have been sought by the petitioners in these proceedings namely, Powers of inspection, search, seizure and arrest - penalties and prosecution - validity of section 69 & 132, section 70(1), section 67(1) and 69, Section 137 and section 135 of GST - right to life under Article 21 of the Constitution.

**Decision of Advance Ruling Authority :**

**DECISION:**

The petitioners have an efficacious remedy in the form of proceedings under Article 226 of the Constitution to challenge the constitutional validity of the provisions of the statute which are placed in issue. Following this course of action is desirable, for this Court will then have the benefit of a considered view emanating from the High Court. Though the Counsel for the petitioners invokes Article 21, this is a case involving essentially a challenge to revenue legislation. Undoubtedly, the jurisdiction of this Court under Article 32 is a salutary constitutional safeguard to protect the fundamental rights of citizens. The Court must be solicitous in exercising it where a breach of fundamental human rights is in issue. But equally, whether recourse to the jurisdiction under Article 32 should be entertained in a particular case is a matter for the calibrated exercise of judicial discretion.

There is regime of well-established remedies and procedures under the laws of criminal procedure. Revenue legislation also provides its own internal discipline. Short circuiting this should not become a ruse for flooding this court with petitions which can, should and must be

addressed before the competent fora. Hence we are of the view that it would be appropriate to relegate the petitioner to the remedy of a petition under Article 226 so that this Court has the benefit of the considered view of the jurisdictional High Court.

The petitioners must be relegated to pursue the remedies in accordance with law - Petition dismissed.