

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.10.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.No.25264 of 2015

and

M.P.Nos.1 and 2 of 2015

1. M/s.Shree Sairam Chit Funds (Madras) Pvt. Ltd.
Rep. by its Director, R.K.Thukkaram,
No.144, E.V.R. High Road,
Chennai - 600 084.
 2. R.K.Thukkaram,
Director,
M/s.Shree Sairam Chit Funds (Madras) Pvt. Ltd.
No.7, Kellys Road,
Chennai - 600 010.
 3. Inderchand S.
Director,
M/s.Shree Sairam Chit Funds (Madras) Pvt. Ltd.
No.859, Raja Street,
Coimbatore - 641 001.
 4. Devarajan N.
Director,
M/s.Shree Sairam Chit Funds (Madras) Pvt.Ltd.
AL80,4th street,
Anna Nagar,
Chennai - 600 040.
 5. Mohanlal J.
Director,
M/s.Shree Sairam Chit Funds (Madras) Pvt. Ltd.
No.3, Kannadasan Salai,
T.Nagar, Chennai - 600 017.
- ...Petitioners

Vs

Deputy Registrar of Companies,
Tamilnadu
Shastri Bhawan
26, Haddows Road,
Chennai - 600 006.

...Respondent

Petition filed under Section 482 of Cr.P.C. praying to
call for the records pertaining to E.O.C.C.No.178 of 2015 on

the file of the learned Additional Chief Metropolitan Magistrate, Economic Offences - II, Egmore, Chennai-8 and quash the same.

For Petitioner : Mr.R.Harishankar

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

O R D E R

Heard the learned counsel for the petitioners.

2. The prosecution launched against the petitioners has been vividly set out in the following paragraphs in the complaint filed by the Deputy Registrar of Companies.

"5. That whereas Investors Education and Protection Fund (uploading of information regarding unpaid and unclaimed amounts lying with the companies) Rules 2012 mandates every company (including Non-banking Financial Companies and Residuary Non-banking Companies) shall, within 90 days after the holding of Annual General Meeting or the date on which it should have been held as per the provisions of Section 166 of the Act and every year thereafter till completion of seven years period, identity the unclaimed amounts as referred to in sub-section (2) of section 205C of Act, separately furnish and upload on its own website as also on the Ministry's website or any other website as may be specified by the government, a statement or information through E Form 5 INV, separately for each year containing following information, namely:-

- (a) Name and last known address of the person entitled to receive the sum
 - (b) The nature of amount
 - (c) The amount to which each person is entitled
 - (d) The due date for transfer into investor Educations and Protection Fund and
 - (e) Such other information as considered relevant for the purpose
- Provided that for the financial year ended March 31, 2011 the information shall be filed latest by July 31st 2012.

6. That the accused company has not filed 5 INV as required under the above said Rule and violated the provisions of the said rules. Hence the show cause notice was issued on 03.09.2014 by the complainant to the Accused No.1 to 5 who have acknowledged the receipt of the show cause notices. However, no reply has been received.

7. That as per Section 629A of the Companies Act, if a Company or any other person contravenes any provision of this Act for which no punishment is provided elsewhere in this Act or any condition, limitation or restriction subject to which any approval, sanction, consent, confirmation, recognition, direction or exemption in relation to any matter has been accorded, given or granted, the company and every officer of the company who is in default or such other person shall be punishable with fine which may extend to five thousand rupees, and where the contravention is a continuing one, with a further fine which may extend to five hundred for every day after the first during which the contravention continues."

3. The learned counsel for the petitioners submitted that the provisions of Section 205C of Companies Act will not apply to Chit Fund Company and in support of the contention, she took me through an handout to show how Chit Companies operate.

4. This Court has no quarrel with the operation procedure of chit as set out in the handout. However, the allegation in the complaint is not with regard to the applicability of Section 205C of the Companies Act, but for the failure of the petitioners to upload their account details in the website of the Ministry. Therefore, the contention of the learned counsel for the petitioner does not hold good.

5. In such circumstances, this petition is devoid of merits and the same is dismissed. Consequently, connected miscellaneous petitions are closed.

-Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

ogy/nvi

To

1. The Addicitional Chief Metropolitan Magistrate,
Eo-II
Egmore,Chennai -8
 2. Do Thro The Chief Metropolitan Magistrate,
Egmore.Chennai-8
 3. Deputy Registrar of Companies,
Tamilnadu
Shastri Bhawan
26, Haddows Road,
Chennai - 600 006.
 4. The Public Prosecutor,
High Court,
Madras.104
- +1 cc to Mr.R.Harishnakar,Advocate(sr.55312)

Crl.O.P.No.25264 of 2015

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cp 19/10/2015



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