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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2022

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THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No. 28455 of 2021

and

W.M.P. Nos. 30048 & 30049 of 2021

M/s. QMax Spinners India Pvt Ltd
Rep. by its Managing Director Mr.V.Janarthanan
No.1/53, Pothiyampalayam Road
Arasur Post, Coimbatore - 641 407 .. Petitioner

Versus

1. The Secretary
Commercial Taxes and Registration Department
Government of Tamil Nadu
Secretariat Complex, Chennai - 600 009
2. The Chit Arbitrator - Coimbatore
Office of the District Registrar
No.102, State Bank Road
Gopalapuram, Coimbatore - 641 018
3. M/s. Margadarsi Chits Pvt Ltd
No.36/17, "Ashirwad" 3rd Floor
D.B. Road, R.S. Puram
Coimbatore - 641 002 .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the first respondent to consider and dispose the Appeal filed by the petitioner in Appeal No. 10115 of 2020 on the file of the first respondent.

For Petitioners : Mr.J.T.Rajasuriya

For Respondents : Mr.R.Kumaravel for R1 & R2
Additional Government Pleader

O R D E R

Mr.R.Kumaravel, learned Additional Government Pleader takes notice for respondents No. 1 and 2. By consent of both the parties, the writ petition is taken up for final disposal at the time of admission stage itself.

2.The present writ petition has been filed seeking a direction to the first respondent to consider and dispose the Appeal filed by the petitioner in Appeal No. 10115 of 2020 on the file of the first respondent.



3.The facts of the case are as follows:

The petitioner company had subscribed a chit operated by the third respondent viz., M/s.Margadarsi Chits Private Ltd. In the year 2013. On 20.07.2014, the petitioner company had bid for Rs.16,25,000/- and issued pronote for a sum of Rs.18,50,000/- towards balance subscription in the 13 th installment. Due to financial constraints, the petitioner company has not paid the balance chit regularly. During the year 2017, the third respondent filed a claim petition before the second respondent viz., learned Chit Arbitrator, Coimbatore in ARC. No.07 of 2017. On 05.01.2019, the petitioner paid a sum of Rs.5 lakhs to the third respondent during the Arbitration proceedings. The Chit Arbitrator finally passed an award dated 26.09.2019 whereby he ordered that the petitioner company had to pay a sum of Rs.17,25,326/- totally towards chit dues to the third respondent.

4. Challenging the said order, the petitioner filed appeal before the first respondent with a delay of 371 days and the appeal was numbered as Appeal No.10115 of 2020. In the mean while, the third respondent filed a execution proceedings in EP.No.40/2020 before the learned IV Additional District Judge, Coimbatore for attachment of the petitioner's property. On 04.10.2021 the learned Judge had proceeded to permit auction and sale of the attached property. Apart from that, the third respondent filed another Execution proceedings in EP.No.165 of 2020 before the learned Principal District Judge, Coimbatore seeking attachment of another valuable property.

5. While being so, the petitioner filed a memo dated 12.11.2021 before the first respondent requested for early disposal of the appeal. The same was not considered by the first respondent. Hence, the petitioner has filed the present writ petition before this Court seeking appropriate direction.

6. The learned counsel for the petitioner submitted that the appeal has been filed only because of the order of the Chit Arbitrator was found to be erroneous. If the appeal is not heard and disposed by the first respondent, in time, the petitioner and their guarantors will be seriously affected. Therefore, the learned counsel prays that this Court may issue a direction to the first respondent to dispose the appeal within the stipulated time as fixed by this court.

7. The learned Additional Government Pleader appearing for the respondents 1 & 2 submitted that the appeal will be disposed within the reasonable time as fixed by this Court.

8. Considering the facts and circumstances of this case, this court, without expressing any opinion with regard to the merits of the case, direct the first respondent to consider the petitioner's appeal in Appeal No.10115 of 2020 and pass appropriate orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.



9. With the aforesaid direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

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To

1. The Secretary
Commercial Taxes and Registration Department
Government of Tamil Nadu
Secretariat Complex, Chennai - 600 009
2. The Chit Arbitrator - Coimbatore
Office of the District Registrar
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+1cc to Government Pleader SR.No.1082

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NRL(CO)
GMY(31/01/2022)