IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 18-06-2025**

CORAM

**THE HONOURABLE MR JUSTICE N. ANAND VENKATESH**

**WP No. 22852 of 2023**

1. Dhanalakshmi Srinivasan Chit Funds Pvt., Ltd.,
Rep. By Its Foreman Mr. Sathyasundaram No
13(1) AB Towers, First Floor,
Police Line Street, Tiruppur 641 601

Petitioner(s)

Vs

1. The Government Of Tamil Nadu
Rep. By Its Secretary To Government
Commercial Taxes And Registration (G)
Department
Fort St. George, Chennai 600 009

2.P. Subramanian
S/o K. Pachaiappan

3.M/s. Maheswari Spinners Rep By Its
Partners
Mr. J. Chandru S/o Mr. G. Jayaprakasam
Mrs R. Maheswari W/o Mr J. Chandru
S.F. No 300/3, Kovai Main Road,
Karlyamplayam, Annur Coimboatre 641 653

4.M.A Shibin Fyzel
S/o M.A. MonuppaArran
M/s. Speetek Car Decors-Proprietor
No 42/1 Ff-2 Victory Tower Government
Arts College Road, Coimbatore 641 018

5.R. Maheswari
W/o Mr. J. Chandru

Respondent(s)

**PRAYER**

Call for the records in G.O (D) No. 214 dated 14.07.2023 in Appeal No. 11122 / G/ 2019 on the file of the 1st Respondent-Secretary to Government Commercial Taxes and Registration (G) Department and to quash the same.

For Petitioner(s): Mr.Y.Jyothish Chander
For Respondent(s): Mr.Vijay Anand
Additional Government Pleader for R1
No appearance for R2, 3 & 5

**ORDER**

This writ petition has been filed challenging the impugned Government order, which was passed based on the appeal filed by the 2nd respondent dated 14.07.2023, wherein the petitioner was directed to exhaust the relief from the subscriber and thereafter, if any balance amount is due and payable, collect the same from the guarantors.

2. Heard Mr.Y.Jyothish Chander, learned counsel for the petitioner and Mr.Vijay Anand, learned Additional Government Pleader for the 1st respondent.

3. It is evident from the materials available on record that the petitioner is in the business of conducting chit transactions. The 3rd respondent joined the same and entered into an agreement with the petitioner company. They participated in the auction conducted on 17.08.2015 and received the prize amount of Rs. 60,00,000/- (Rupees Sixty Lakhs only). The other private respondents stood as guarantors for the due payment of the subscriber.

4. The 3rd respondent defaulted on the 11th installment, and hence proceedings were initiated under Section 64 of the Chit Funds Act. The Deputy Registrar of Chit, Tirupur issued an order dated 31.08.2017 in ARC.No.16 of 2017, adjudicating that the principal and interest amount payable is Rs.1,01,63,013/-.

5. The 2nd respondent filed an appeal, and in the said appeal, the Government order was passed to the effect that the petitioner must first recover the dues from the subscriber, who is the 3rd respondent represented by its partners, and thereafter the balance amount alone can be recovered from the guarantors. Aggrieved by the same, the present writ petition has been filed before this Court.

6. The reasons assigned by the 1st respondent directing the petitioner to

recover the dues from the subscriber and thereafter from the guarantor, goes against the very principle of law enunciated under Section 126 of the Contract Act. The creditor is given the option of recovering the amount straight away from the guarantor, and once the same is done, the guarantor gets into the shoes of the creditor and he can recover the amount from the principal borrower. Therefore, the 1st respondent was not right in directing the petitioner to recover the amount first from the subscriber and thereafter from the guarantor. If this principle is followed, it goes against the trite law pertaining to recovery from a guarantor as prescribed under the Contract Act.

7. In view of the above discussion, the impugned Government order in G.O (D) No. 214, dated 14.07.2023 is hereby quashed and it is made clear that the petitioner will be entitled to recover the amount due and payable from the guarantor and also from the subscriber.

8. In the result, the writ petition is allowed. No costs. Consequently, the connected miscellaneous petitions, if any, are closed.

**18-06-2025**

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Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

1. The Government Of Tamil Nadu
Rep. By Its Secretary To Government
Commercial Taxes And Registration (G)
Department
Fort St. George, Chennai 600 009

**N.ANAND VENKATESH J.**

gd

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