



WEB COPY

WP No. 22852 of 2023



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

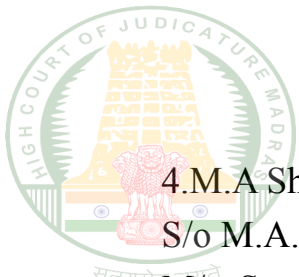
Petitioner(s)

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 1<sup>st</sup> 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

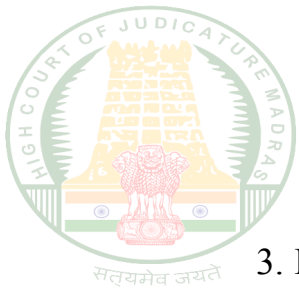
Additional Government Pleader for R1

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 2<sup>nd</sup> 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 1<sup>st</sup> respondent.



3. It is evident from the materials available on record that the petitioner is in the business of conducting chit transactions. The 3<sup>rd</sup> 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 3<sup>rd</sup> respondent defaulted on the 11<sup>th</sup> 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 2<sup>nd</sup> 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 3<sup>rd</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> 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



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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

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**N.ANAND VENKATESH J.**

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