

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**TUESDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE**

PRESENT

**THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE SUDDALA CHALAPATHI RAO**

WRIT PETITION NOS: 911 & 28441 OF 2009

W.P.NO: 911 OF 2009

Between:

M/s. Margadarsi Chit Fund Ltd., Rep. by its Managing Director, Smt.
Ch.Sailaja Kiran, W/o. Ch.Kiran 5-10-195, Corporate office, Opp Police
Control Room Fatehmaidan Road, Hyderabad-500004

...PETITIONER

AND

The Deputy Commissioner Of Income Tax, Circle 16(2) 6th floor, Ayakar
Bhavan, Basheerbagh, Hyderabad

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ of certiorari or any other writ or direction or order more in the nature of Writ of Certiorari calling for the records comprised in the impugned assessment order dated 29.12.2008 for the assessment year 2006-07 on the file of the Respondent and impugned Notice under section 156 of the Income Tax Act, 1961 dated 29.12.2008 issued by the Respondent and quash the same.

I.A. NO: 1 OF 2009(WPMP. NO: 1157 OF 2009)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant an order of interim stay of all further proceedings in pursuance of the impugned assessment order dated 29.12.2008 for the assessment year 2006-07 on the file of the respondent pending disposal of the above writ petition.

I.A. NO: 2 OF 2009(WPMP. NO: 1158 OF 2009)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to grant an order of interim stay of all further proceedings in pursuance of the impugned Notice under section 156 of the Income Tax Act, 1961 dated 29.12.2008 issued by the respondent pending disposal of the above writ petition and thus render Justice.

I.A. NO: 4 OF 2009(WVMP. NO: 1640 OF 2009)

Between:

The Deputy Commissioner Of Income Tax, Circle 16(2) 6th floor, Ayakar Bhavan, Basheerbagh, Hyderabad

...PETITIONER/RESPONDENT

AND

M/s. Margadarsi Chit Fund Ltd., Rep. by its Managing Director, Smt. Ch.Sailaja Kiron, W/o. Ch.Kiran 5-10-195, Corporate office, Opp Police Control Room Fateh Maidan Road, Hyderabad-500004

...RESPONDENT/PETITIONER

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to vacate the interim order dated 27.4.2009 granted by the Hon'ble High Court in WP.MPNo. of 2009 in WPNo.911 of 2009.

**Counsel for the Petitioner: SRI KAILASH NATH P.S.S REPRESENTING
SRI T.BALAMOHAN REDDY, ADVOCATE**

**Counsel for the Respondent: SRI K.SUDHAKAR REDDY, SENIOR STANDING
COUNSEL FOR INCOME TAX**

W.P.NO: 28441 OF 2009

Between:

M/s. Margadarsi Chit Fund Limited, represented by its Managing Director Smt. Ch.Shailaja W/o. Sri Ch.Kiran 5-10-195, Corporate Office, Opp Police Control Room, Hyderabad.

...PETITIONER

AND

The Additional Commissioner of Income Tax, Range 16, Ayakar Bhavan, Basheerbagh, Hyderabad.

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an order or direction or writ more in the nature of Writ of Certiorari calling for the record comprised in the impugned assessment order dated 14.12.2009 for the assessment year 2007-2008 on the file of the Respondent and quash the same.

I.A. NO: 1 OF 2009(WPMP. NO: 37009 OF 2009)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased grant an order of interim stay of all further proceedings in pursuance of the impugned assessment order dated 14.12.2009 for the assessment year 2007-2008 on the file of the respondent, including recovery of tax of Rs.127,86,89,098/- as per notice under Section 156 of the I.T. Act, 1961 or any other amounts, pending disposal of the above Writ Petition and thus render justice.

**Counsel for the Petitioner: SRI KAILASH NATH P.S.S REPRESENTING
SRI T.BALAMOHAN REDDY, ADVOCATE**

**Counsel for the Respondent: SRI K.SUDHAKAR REDDY, SENIOR STANDING
COUNSEL FOR INCOME TAX**

The Court made the following: COMMON ORDER

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THE HONOURABLE SRI JUSTICE P.SAM KOSHY
AND
THE HONOURABLE SRI JUSTICE
SUDDALA CHALAPATHI RAO**

W.P.Nos.911 & 28441 OF 2009

02.12.2025

Between:

M/s Margadarsi Chit Fund Limited,
Rep. by its Managing Director,
Smt.Ch.Shailaja.
Hyderabad.

...Petitioner

A N D

The Deputy Commissioner of Income Tax,
Circle 16(2), 6th Floor, Ayakar Bhavan,
Basheerbagh, Hyderabad.

...Respondent

ORDER: *(per Hon'ble Sri Justice P.Sam Koshy)*

Heard Mr. Kailash Nath P.S.S, learned counsel representing
Mr. T.Bala Mohan Reddy, learned counsel for the petitioner and
Mr. K.Sudhakar Reddy, learned Senior Standing Counsel for the
Income Tax Department for the respondent. Perused the record.

2. These are two writ petitions which have been filed assailing the assessment order dated 29.12.2008 for the assessment year 2006-2007 and dated 14.12.2009 for the assessment years 2007-2008.

3. Though the Assessing Officer in the course of passing the impugned assessment order has decided four issues, those are – (1) disallowance of chit dividend/interest u/s 40(a)(ia), (2) disallowance of staff cost, (3) disallowance of expenditure u/s 14A and (4) disallowance u/s 40(a)(ia) for the failure u/s 194C, the petitioner seems to be primarily aggrieved of the order passed in issue No.1 so far as disallowance of chit dividend/interest under Section 40(a)(ia). The said issue by now has been considered in a batch of writ petitions by this High Court itself and few of them pertaining to the very same assessee. The same issue has also been decided by the other High Courts as well. In the case of **COMMISSIONER OF INCOME TAX VS. SAHIB CHITS (DELHI) (P) LTD.**¹ decided on 24.07.2009, the Division Bench of

¹ ITA No.44 OF 2008 DATED 24.07.2009
of High Court of Delhi at New Delhi

the Delhi High Court dealing with the issue on chit subscription has held as under:

"The above question has already been answered by the Delhi High Court in *Sahib Chits (Delhi) P. Ltd.*, in I.T.A. No.44 of 2008, on 24.07.2009; and also by the learned Tribunal of Bangalore Bench in the case of *Marga Soochi Chit Pvt. Ltd.*, in I.T.A. No.995/Bangalore/2008, wherein it was held that the amount disbursed by a chit fund company to the members from the contribution cannot be treated as interest. Similar view was taken by the Madras High Court in the case of *Bilahari Investments (P) Ltd. V. C.I.T (288 ITR 39 (Mad.)* and the decision of the Madras High Court has been affirmed by the Supreme Court in the case of *C.I.T. v. Bilahari Investment Pvt. Ltd [(2008) 299 ITR 1]*. Therefore, the learned Tribunal has followed the correct proposition of law relying on the Supreme Court decision, and Delhi and Madras High Courts decisions. We do not find any reason to interfere with the impugned order."

4. Following the aforesaid judgment of the Delhi High Court, this High Court also in the case of the assessee itself in W.P.No.26553 of 2005 allowed the writ petition in terms of the order passed by the Delhi High Court in the case of *Sahib Chits* (supra) vide its order dated 29.01.2024. The said judgment was subsequently also followed in W.P.No.1562 of 2008 which stood decided on 26.06.2025.

5. In the present two writ petitions also, the main issue that was under challenge is this itself and, therefore, the learned counsel appearing on either side do not dispute the fact that the said issue stands decided by the aforesaid judgment of the Delhi High Court in the case of *Sahib Chits* (supra) and this High Court in W.P.No.26553 of 2005 and W.P.No.1562 of 2008.

6. In view of the same, we are inclined to allow the writ petitions to the extent so far as issue No.1 in respect of chit subscription is concerned holding that disbursement of the chit amount to its members cannot be treated as interest or dividend.

7. However, as regards the other issues are concerned, those pertaining to disallowance of staff cost, disallowance of expenditure under Section 14(A) and disallowance under Section 40(a)(ia) for the failure under Section 194 (c) are concerned and for the assessment year 2006-2007, there two more additional issues, those are disallowance of short term capital loss on sale of plant and machinery and PF and ESI treated as income u/s 2(24)(x), this Court in its earlier decision itself in W.P.No.1562 of 2008 had left it for the Assessing Officer to issue fresh notice and

decide on merits. However, in the instant case, since there is already an adjudication by the Assessing Officer, those issues we are leaving it open permitting the petitioner to challenge the same if at all if the petitioner inclined to challenge the same by way of preferring a statutory appeal in accordance with law.

8. With the aforesaid observation and direction, these two writ petitions stand allowed-in-part. As a consequence, the order of the Assessing Officer so far as the issue pertaining to child contribution is concerned, is set aside/quashed. There shall be no order as to costs.

Consequently, miscellaneous petitions pending, if any, shall

stand closed.

That Rule Nisi has been made absolute as above.

Witness THE HON'BLE THE CHIEF JUSTICE APARESH KUMAR SINGH, on this TUESDAY, THE SECOND DAY OF DECEMBER TWO THOUSAND AND TWENTY FIVE

SD/-A SRINIVASA REDDY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Deputy Commissioner Of Income Tax, Circle 16(2) 1st floor, Ayakar Bhavan, Basheerbagh, Hyderabad.
2. The Additional Commissioner of Income Tax, Range 16 Ayakar Bhavan, Basheerbagh, Hyderabad.
3. One CC to SRI T.BALAMOCHAN REDDY, Advocate [OP JC]
4. One CC to SRI K.SUDHAKAR REDDY, Sr SC FOR INCOME TAX [OPUC]
5. Two CD Copies

PSK.

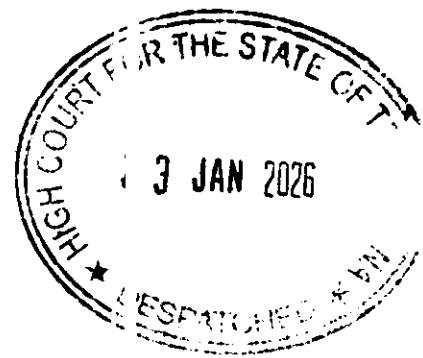
LS *[Signature]*

HIGH COURT

DATED:02/12/2025

COMMON ORDER

WP.Nos.911 & 28441 of 2009



**PARTLY ALLOWING THE WRIT PETITIONS
WITHOUT COSTS**

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