

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).12144/2006

(From the judgement and order dated 09/06/2006 in WP No. 26553/2005 of The

HIGH COURT OF A.P AT HYDERABAD)

M/S SHRIRAM CHITS (P) LIMITED

Petitioner(s)

VERSUS

CENTRAL BOARD OF DIRECT TAXES & ORS

Respondent(s)

(With appln(s) for Raising additional grounds and prayer for interim relief and office

report)

WITH

SLP(C) NO. 12169 of 2006

(With appln(s) for Raising additional grounds and prayer for interim relief and office

report)

SLP(C) NO. 12344 of 2006

(With appln(s) for stay, Raising additional grounds and prayer for interim relief and

office report)

Date: 27/02/2007 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s) Mr. K. Parasaran, Sr. Adv.
Mr. A.K. Ganguli, Sr. Adv.
Mr. V. Balaji, Adv.
Mr. P.N. Ramalingam, Adv.

For Respondent(s) Mr. A. Sharan, ASG.
Mr. Arijit Prasad, Adv.
Mr. Amit Tiwari, Adv.
Mr. B.V. Balaram Das, Adv.

Mr. R. Santhan Krishnan, Adv.
Mr. K. Radha Rani, Adv.
Mr. Praveen K. Pandey, Adv.
Mr. P. Vijay Kumar, Adv.
Mr. D. Mahesh Babu, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeals stand disposed of in terms of the signed order.

(J.S. Rawat)

(Pushap Lata Bhardwaj)

AR-cum-PS

Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1114 OF 2007
(Arising out of SLP(C) No. 12144 of 2006)

M/s. Shriram Chits (P) Limited

Appellant(s)

Versus

With

CIVIL APPEAL NO. 1115 OF 2007
(Arising out of SLP(C) No. 12169 of 2006)

CIVIL APPEAL NO. 1116 OF 2007
(Arising out of SLP(C) No. 12344 of 2006)

O R D E R

Leave granted.

These appeals are directed against a judgment and order dated 9th June, 2006 passed by a Division Bench of the High Court of Judicature of Andhra Pradesh at Hyderabad in W.P. No. 26553/2005 whereby and whereunder the Writ Petition filed by the appellants herein were dismissed stating :

"The learned counsel appearing for the petitioners submitted that by various provisions of law in the Chit Fund Act, it could be understood that the dividend amount was not in the nature of interest. The case was argued in the detail by the learned counsel for the parties and reference was made to various judgments. But we feel that the question cannot be decided at this stage, as petitioners No. 1, 3 and 4 have not shown any cause of action in the Writ petition. The Writ petition has been filed on thei

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behalf of merely on assumptions, whereas there is a cause of action for petitioner No.2, who has already filed an

appeal against the order, of which, he is aggrieved, and appellate authority is seized of the matter. If this writ petition is decided by us on merits, the appeal itself would become infructuous and either of the parties will get prejudiced."

The appellants herein filed a Writ Petition, inter alia, praying for

the for the following reliefs:

"For reasons aforesaid, the petitioner prays that this Hon'ble Court may be pleased to decree that the Respondents have no jurisdiction under Section 194A of

the Income Tax Act, 1961 for calling upon the members of the first Petitioner Federation and the other Petitioners to deduct tax at source on the dividend amount distributed to the subscribers and consequently issue a writ, direction or order especially in the nature of writ of prohibition restraining the Respondents from enforcing provisions of Section 194 A of the Income Tax Act, 1961 to the Petitioner including the members of the first Petitioner Federation and pass such other order(s) as this Hon'ble Court deems fit and proper."

The question which has been raised by the appellants in the said

Writ Petition, inter alia, is as to whether the dividend distributed amongst

the subscribers of a Chit Fund would be 'interest' meriting deduction of tax

at source in terms of Section 194 A of the Income Tax Act?

It is not disputed that for the purpose of enforcing the afore-mentioned provisions, the authorities are relying upon a Circular issued by

the Central Board of Direct Taxes (CBDT) dated 16.05.1968. Our attention

has also been drawn to the fact that on a representation made by appellant

No.1 before the CBDT, it has issued a clarification which is as under:

"The issues raised by you have been carefully examined by the Board. In this regard, I am directed to say, that Board are of the view that instruction No. 1175 issued in consultation with M.O.L. cannot be withdrawn on the basis of decision of Punjab and Haryana High Court in case of

Soda Silicate & Chemical Works (supra). The Board's instruction stands".

The question, therefore, which has been raised in the Writ Petition,

in our opinion, is contentious one and, in that view of the matter, the High

Court should have entertained the Writ Petition. We, therefore, set aside the

impugned judgment and request the High Court to dispose of the Writ

Petition on merit.

The appeals stand disposed of accordingly.

...J.

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(S.B. SINHA)

New Delhi;

...J.

February 27, 2007.

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(MARKANDEY KATJU)