

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY THE TWELFTH DAY OF NOVEMBER
TWO THOUSAND AND THIRTEEN

PRESENT

THE HON'BLE SRI KALYAN JYOTI SENGUPTA, THE CHIEF JUSTICE
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR



WRIT PETITION NO: 26715 OF 2012

Between

- 1 The Andhra Pradesh Federation of Chit Funds (A society regd. under A.P. (T.A.) Public Societies Reg. Act, 1350 (Fash), having read. office at 408, 4th Floor, Swapnalok Complex, S D Road, Secunderabad), represented by its President Sri B. Surya Prakash Rao
- 2 M/s. Shriram Chits Private Limited, 44 S D Road, Secunderabad, by its Executive Director, Sri. K. Srinivas
- 3 M/s. Kapil Chit Funds Private Limited, 3-1-831, Vijayaraghunandan Nagar, Kanmnagar, rep. by its Vice President-Finance and Company Secretary.

.....PETITIONERS

AND

- 1 The Union of India, Ministry of Finance, rep. by its Secretary, North Block, New Delhi
- 2 Central Board of Excise and Customs Department of Revenue, Ministry of Finance, rep. by its Chairman and Member, North Block, New Delhi
- 3 The Chief Commissioner of Customs, Central Excise and Service Tax, Hyderabad Commissionerate, Kendriya Shulk Bhavan, Basheer Bagh, Hyderabad 500 004.
- 4 The Chief Commissioner of Customs, Central Excise and Service Tax, Visakhapatnam Commissionerate, Central Excise Building, Port Area, Visakhapatnam.

.....RESPONDENTS

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 Mandamus declaring that issuance of Circular No. 334-1/2012-TRU dated 16.3.2012 and TRU Circular dated 20.6.2012 captioned as 'TAXATION OF SERVICE - EDUCATION GUIDE' to the extent para 2.6.2 and 2.8.2 respectively and Sl. No 8 of Notification No 26/2012-ST dated 20.6.2012 issued by the Second respondent as illegal, arbitrary, violative of Articles 14, 19, 11(g) of Constitution of India, contrary to the law as laid down by the Apex Court, the Hon'ble High Court and other High Courts and runs contrary to the main provision of the Finance Act, 2012 which clearly excludes the transaction in money and consequently hold that the activities of the petitioners do not fall within the ambit of 'service' as defined under section 65B (44) of the Finance Act, 1994 and consequently set aside para 2.6.2 and para 2.8.2 of Circular No. 334-1/2012-TRU dated, 16.3.2012 and TRU Circular dated 20.6.2012 respectively and direct the respondents not to impose any service tax on the petitioners in relation to the chit transactions conducted by the petitioners



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WPMP. NO. 34029 OF 2012

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to issue an order of interim direction restraining the 3rd and 4th respondents and its officers from insisting upon the members of the petitioner association from obtaining registration under the finance Act 1994 and consequential compliance there under pursuant to the impugned circular para 2.6.2 of Circular No. 334/1/2012-TRU dated 16-3-2012 and para 2.8.2 of TRU Circular dated 20-06-2012 captioned as 'TAXATION OF SERVICE - EDUCATION GUIDE' and Sl. No. 8 of Notification No. 26/2012-ST dated : 20-6-2012 issued by the 2nd respondent

Counsel for the Petitioners: SRI R. RAGHUNANDAN

**Counsel for Respondents: SRI JALAKAM SATHYARAM,
(SC FOR CB EXCISE)**

The Court made the following: ORDER

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR



Writ Petition No. 26715 of 2012

Order: (per the Hon'ble the Chief Justice Sri Kalyan Jyoti Sengupta)

It appears that the same notification, which is challenged here was challenged before the Delhi High Court and by judgment dated 23.4.2013 rendered in the case of **DELHI CHIT FUND ASSOCIATION vs. UNION OF INDIA & OTHERS** in W.P. (C) 4512/2012, the Delhi High Court has quashed the said notification.

In view of the above judgment of the Delhi High Court, we are not required to once again quash the impugned notification. Obviously, the judgment of the Delhi High Court will be operating in the field unless and of course the same has not been upset or set aside by the Hon'ble Supreme Court.

The writ petition is accordingly disposed of.

Consequently, the miscellaneous applications, if any pending, shall also stand disposed of. No costs.

SD/-PUSHPA DESHMUKH
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To.

1. One C.C. to Sri R. Raghunandan, Advocate (OPUC)
2. One C.C. to Sri. Jalakam Sathyaram, SC. for Central Board Excise (OPUC)
3. Two CD Copies

SUPERINTENDENT
COPYIST DEPARTMENT
High Court of A
Hyderabad