

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WRIT PETITION No.14745 of 2021

Between:

1.M/S. USHABALA CHITS PRIVATE LIMITED, 25-2-12-2, USHA BALA COMPLEX, JOHN STREET, NARSIMHA RAO PET, ELURU-534006 ANDHRA PRADESH, REP. BY SRI V.V. BALA KRISHNA RAO, MANAGING DIRECTOR

...PETITIONER

AND

- 1.THE COMMISSIONNER OF STATE TAX, D. NO.5-59, BANDAR ROAD, SPRING VALLEY APPARTEMENTS, RAJIV BHARGAV COLONY ROAD, EDUPUGALLU, VIJ AYAWADA, ANDHRA PRADESH - 521151
- 2.THE COMMISSIONER OF CENTRAL TAX AND CUSTOMS, VISAKHAPATNAM ZONE, GST BHAVAN, PORT AREA, VISAKHAPATNAM - 530035, A.P.
- 3.THE APPELLATE AUTHORITY FOR ADVANCE RULING, EDUPUGALLU, VIJAYAWADA, A.P. 521151
- 4.THE UNION OF INDIA, THROUGH THE SECRETARY, MINISTRY OF FINANCE, NORTH BLOCK, NEW DELHI - 110001
- 5.THE STATE OF ANDHRA PRADESH, REP. BY ITS PRINCIPAL SECRETARY TO THE GOVERNMENT REVENUE (STATE TAX) DEPARTMENT, SECRETARIAT BUILDINGS, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT BUILDINGS, VELAGAPUDI, AMARAVATHI, GUNTUR DISTRICT.

...RESPONDENT(S):

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 topleased to issue a Writ, Order or direction more particularly one in the nature of a 'Writ of Mandamus' setting aside the Ruling pronounced by Respondent No.3 vide AAAR/AP/03(GST)/2020 dated 21.09.2020 and pass

IA NO: 1 OF 2021

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 order stay of the ruling pronounced by Respondent No. 3 vide

AAARJAP/03(GST)/2020 dated 21.09.2020, pending disposal of the main Writ Petition, and to pass

IA NO: 1 OF 2025

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 may be pleased to receive the counter copies on record by allowing the leave petition in the above writ petition and pass

Counsel for the Petitioner:

1.LAKSHMI KUMARAN SRIDHARAN

Counsel for the Respondent(S):

1.GP FOR COMMERCIAL TAX

Date of Judgment pronounced on: 10-12-2025

HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO

AND

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

1. Whether Reporters of Local newspapers : Yes/No
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked : Yes/No
to Law Reporters/Journals:
3. Whether the Lordship wishes to see the fair copy : Yes/No
Of the Judgment?

***IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI**

*** HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

AND

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

+ WRIT PETITION No.14745 of 2021

% Dated: 10-12-2025

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1.LAKSHMI KUMARAN SRIDHARAN

Counsel for the Respondent(S):

1.GP FOR COMMERCIAL TAX

<GIST :

>HEAD NOTE:

Cases referred: (2019) 19 SCC 732



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3529]

WEDNESDAY, THE TENTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE SRI JUSTICE R RAGHUNANDAN RAO

THE HONOURABLE SRI JUSTICE T.C.D.SEKHAR

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1.LAKSHMI KUMARAN SRIDHARAN

Counsel for the Respondent(S):

1.GP FOR COMMERCIAL TAX

Date of Reserved: 12.11.2025

Date of Pronouncement: 10.12.2025

Date of upload: 10.12.2025

The Court made the following Order: (Per Hon'ble Sri Justice R. Raghunandan Rao)

The petitioner is a chit fund company engaged in the business of running chit schemes. The conduct of chits is regulated by the Chit Fund Act, 1982 [for short "the Act 1982"] read with the Andhra Pradesh Chit Funds Rules, 2008 [for short "the Rules 2008"]. The method of conduct of chits, as regulated by the said Act, 1982 and the Rules, 2008, has been set out by the petitioner in the affidavit filed in support of the Writ Petition. The same is being extracted below:-

"A person (known as Foreman) gathers (enrols) a group of chit subscribers, say 40 members (subscribers), who are willing to pay, say Rs.2,500/- per month, say for a period of 40 months (the number of subscribers in a group and the number of months of the chit group, chit period, is normally the same). For gathering chit subscribers, collecting money from each subscriber, conducting monthly chit auctions (to identify the one subscriber who is entitled to the chit (prized) amount) and disbursing the prized amount, the Foreman is entitled to collect a Foreman commission at 5% of the chit value as per Section 21(1)(b) of the Chit Funds Act, 1982. In the above example, the Foreman would be able to commence a chit value of Rs.1,00,000/- (Rs 2,500 X 40 subscribers) for 40 months and collect foreman commission of Rs 5,000/- (15% of Rs.1,00,000/-) each month.

Continuing the example, each subscriber would be required to pay a maximum amount of Rs.2,500/- for 40 months and each of the 40 subscribers (identified by lot or chit auction) would be entitled to receive, by turns, the

prized chit amount. Since each subscriber is entitled to receive a maximum prized money of Rs.95,000/-(Rs.1,00,000 of chit value, minus, foreman commission of Rs.5,000/-) and re-pay the amount so received, in monthly installments, normally there would be several subscribers willing to receive at a discount i.e., less than Rs.95,000/- and re-pay the prized money so received, in monthly installments. The Chit Fund Act, 1982 has fixed a maximum discount at 40% of the chit value (Section 6 of the Chit Fund Act, 1982 read with Rule 13 of the AP Chit Fund Rules, 2008). The difference between the maximum amount payable by the Foreman after Foreman's commission i.e., Rs.95,000/- (Rs.1,00,000-5,000/-) and the actual prized money receivable by a subscriber, is divided equally amongst all the chit subscribers of the particular chit group and it is called "chit dividend".

2. In certain instances, both the non-prized subscriber as well as the prized subscriber, fail to pay the necessary chit installments. In such a situation, to ensure that the chit schemes does not fail, the foreman makes good the said payments and hands over the prize amount to the prized subscriber, who is entitled to the said prized amount. The money so made good by the foreman is recovered from the chit subscribers and interest, at the rate agreed upon, would be charged in relation to such late payments or recovery of amounts by the foreman subsequently.

3. The petitioner, with a view to have clarity whether any GST is payable on such interest/penalty for delay in payment of subscription amount, had approached the Authority for Advance Ruling on this issue. The Authority

for Advance Ruling by a Ruling, dated 05.05.2020, in Ruling No.13/AP/GST/2020, held that the additional amount being charged on delayed payment, which is termed as interest, late fee and penalty, would have to be treated as a part of the value of service and the GST would be liable on such amounts charged on delayed payment. Aggrieved by this Order, the petitioner approached the Appellate Authority for Advance Ruling. The Appellate Authority by its Ruling, in Order bearing AAAR/AP/03(GST)/2020, dated 21.09.2020, affirmed the Order of the Authority for Advance Ruling. Aggrieved by the said Authority for Advance Ruling and the Appellate Authority for Advance Ruling, the petitioner has approached this Court by way of the present Writ Petition.

4. Sri Raghavan Ramabhadran, learned counsel appearing for the petitioner, relying upon Sl.No.27 of exemption of the notification No.12/2017-CT(Rate), dated 28.06.2017, contends that the interest collected by a chit fund company from defaulting subscribers is covered by the said entry. He further submits that the amount payable by the defaulting subscribers would have to be treated as a debt and interest payable on such debt would not attract levy of GST. He would further submit that the consideration for service offered by the foreman, for conducting the chit, is paying separately to the foreman and the interest payable on the delayed payment of chit subscription amounts cannot be treated to be part of the consideration paid to the foreman for his services and running the chit. He would submit that both the Authority for

Advance Ruling and the Appellate Authority for Advance Ruling had misdirected themselves in this regard.

5. The Authority for Advance Ruling had framed two questions namely:-

I. Whether the interest/penalty collected for delay in payment of monthly subscription by the members forms a supply under GST?

II. If the said interest/penalty is a supply, what is the classification and rate of duty applicable on the said supply?

6. The authority after considering the objections and submissions of the petitioner held that the additional amount being charged on delayed payment termed as interest, late fee or penalty on the amount delayed in specified time cannot be bifurcated as such additional payment does not have its own classification. It takes colour, from the original supply, that is supply of financial & related services. The Authority for Advance Ruling also considered entry No.27 of the Notification No.12/2017, to hold that the exemption granted under entry No.27 relates only to deposits, loans and advances and as the nature of transaction between the chit company and the foreman would not fall in any of the aforesaid categories, the exemption granted under Notification No.12/2017, would not be applicable. Consequently, the rate of GST was fixed at 12% by applying Sl.No.15 of Heading 9971 as per the Notification No.8 of 2017-Integrated Tax (Rate), dated 28.06.2017.

7. The appellate authority for advance ruling, considered the said issue, in the following manner:

Sl.No.15 of the Notification No.11 of 2017, dated 28.06.2017, had fixed the rate of tax, which is to be levied on the services mentioned in the said notification. Sl.No.15 of that notification stipulated that services provided by the foreman of a chit fund, in relation to chit, which would be falling under Heading 9971, is to be levied at 12% (this would be 6% under GST and 6% under SGST amounting to 12%). The appellate authority then noticed the provisions of Section-21(c) of the Act, 1982, which entitled the foreman of a chit, to interest and penalty, if any, payable on any default in the payment of installments. The appellate authority took the view that since the foreman was entitled to interest and penalty under the provisions of Section 21 of the Act 1982, the said entitlement would have to be treated as a fee payable to foreman on account of services provided by the foreman in relation to the chit and consequently, the interest or penalty collected on delayed payments would have to be treated as fee paid for services rendered by the foreman. After coming to this conclusion, the appellate authority considered the applicability of Entry No.27, in Notification No.12 of 2017, dated 28.06.2017. The Central Government, under Notification No.12 of 2017, had given exemption to the intra-state supply of services set out in column No.3 of the table containing the Notification. Entry No.27 of that notification exempted services, from payment of GST, on consideration paid for services by way of extending deposits, loans or advances in so far as the consideration is

represented by way of interest or discounts. The appellate authority took the view that the exemption set out in the said notification would not be applicable inasmuch as the consideration being paid, on delayed payment of chit installments, cannot be treated as interest in view of the definition of the interest set out in the said notification itself.

Consideration of the Court:-

8. Under the Notification No.11 of 2017, dated 28.06.2017, the consideration paid for services provided by a foreman of a chit fund, in relation to chit, is exigible to tax. The relevant entry Sl.No.15 reads as follows:-

“(i) Services provided by a foreman of a chit fund in relation to chit.

Explanation.-

(a) "chit" means a transaction whether called chit, chit fund, chitty, kuri, or by whatever name by or under which a person enters into an agreement with a specified number of persons that every one of them shall subscribe a certain sum of money (or a certain quantity of grain instead) by way of periodical installments over a definite period and that each subscriber shall, in his turn, as determined by lot or by auction or by tender or in such other manner as may be specified in the chit agreement, be entitled to a prize amount;

(b) "foreman of a chit fund" shall have the same meaning as is assigned to the expression "foreman" in clause (j) of section 2 of the Chit Funds Act, 1982 (40 of 1982).”

9. The question that would arise is what are the services offered by the foreman of a chit fund, the services offered by a foreman can be seen from Section 22 of the Act, 1982, which sets out the duties of a foreman. Under Section-22 of the Act, 1982 reads as follows:

“Section 22:- Duties of foreman

(1) The foreman shall, on the prized subscriber furnishing sufficient security for the due payment of future subscriptions, be bound to pay him the prize amount:

Provided that the prized subscriber shall be entitled to the payment of the prize amount without any security whatsoever if he agrees to the deduction there from of the amount of all future subscriptions and in such a case, the foreman shall pay the prize amount to the prized subscriber within seven days after the

date of the draw or before the date of the next succeeding Instalment, whichever is earlier:

Provided further that where the prize amount has been paid to the prized subscriber under the first proviso, the amount deducted shall be deposited by the foreman in an approved bank mentioned in the chit agreement and he shall not withdraw the amount so deposited except for the payment of future subscriptions.

(2) If, owing to the default of the prized subscriber, the prize amount due in respect of any draw remains unpaid until the date of the next succeeding Instalment, the foreman shall deposit the prize amount forthwith in a separate account in an approved bank mentioned in the chit agreement and intimate in writing the fact of such deposit and the reasons there for to the prized subscriber and the Registrar:

Provided that where any prized subscriber does not collect the prize amount in respect of any installment of a chit within a period of two months from the date of the draw, it shall be open to the foreman to hold another draw in respect of such installment.

(3) Every payment of the prize amount or the amount of future subscriptions under sub-section (1), and the deposit of the prize amount under sub-section (2), shall be intimated to the subscribers at the next succeeding draw and the particulars of such payment or deposit shall be entered in the minutes of the proceedings of that draw.

(4) The foreman shall not appropriate to himself any amount in excess of what he is entitled to under clause (b) or clause (c) of sub-section (1) of section 21:(emphasis added)

Provided that where the foreman is himself a prized subscriber, he shall be entitled to appropriate to himself the prize amount subject to his complying with the provisions of section 31:

Provided further that the foreman may appropriate to himself the interest accruing on the amount deposited under the second proviso to subsection (1).

(5) The foreman shall not admit any person as a subscriber to a chit, if, by such admission, the total number of tickets mentioned in the chit agreement is increased.

(6) The foreman shall distribute among the subscribers, in accordance with the chit agreement, the dividend either in cash, gain or by way of adjustment towards the subscriptions payable for the next installment, if any.”

10. Another relevant Rule would be Rule-2 of the Act, 1982 reads as follows:

“Rule-(2) Rate of Interest payable by the defaulted subscriber and the duty of foreman on receipt of subscription: Every subscriber who defaulted in payment of Installments in time as per the chit agreement, shall pay the interest @18% per annum on the amount so payable to the foreman and the foreman shall pay the amount of dividend of each draw even to the defaulted subscriber as and when the subscriber pays the defaulted subscription.”

11. Section 22 of the Act, 1982, requires the foreman to ensure timely payment of the prize amount. This would naturally require the foreman to make payment of the prize amount, irrespective of whether all the subscribers pay their installments. Thus, the foreman, by implication, would have to make good the deficit arising out the non-payment of installments by the other subscribers, in time. For that reason, Section-21(b)&(c) of the Act, 1982, stipulate that while a general fee of 5% of the chit amount is to be paid to the foreman, the interest and penalty payable on any default in payment of installments is also to be paid to the foreman. The payment of such interest and penalty is sought to be treated by the advance ruling authorities to be a fee being paid towards the services rendered by the foreman. On the other hand, the petitioner contends that payment of such interest and penalty, cannot be treated as a fee paid to the foreman and it would only have to be treated as normal interest and penalty that would arise on any debt.

12. Notification No.12 of 2017, dated 28.06.2017, was issued by the Central Government, setting out the services on which are exempted from payment of GST. Entry No.27 to this Notification reads as follows:-

“Services by way of-

(a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services);

(b) inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks and such dealers.”

13. The petitioner contends that the payment of interest and penalty, on delayed payment of installments, even if termed to be consideration for a

service given by the foreman, would still be exempt from payment of GST on account of the exemption granted under the Notification No.12 of 2017.

14. The term “Interest” has been defined in the said Notification is extracted as here under:

"Interest" means Interest payable in any manner In respect of any moneys borrowed or debt incurred (Including a deposit, claim or other similar right or obligation) but does not Include any service fee or other charges in respect of the moneys borrowed or debt incurred or in respect of any credit facility which has not been utilized."

15. The appellate authority, held that even interest and penalty paid on any defaulting payment of installments would have to be treated as a fee in view of the provisions under Section 21 of the Act, 1982. On this basis, the appellate authority, having held that the right to recover of interest and penalty should be read with along the right to payment of commission and remuneration had opined that interest and penalty should be treated as a part of the consideration paid for supply of services and that such interest and penalty would also been exigible to tax.

16. For the purposes of this, it would be necessary to notice Section-21 of the Act, 1982, which reads as follows:-

“21. Rights of foreman: (1) The foreman shall be entitled, -

(a) in the absence of any provision in the chit agreement to the contrary, to obtain the [gross chit amount] at the first instalment without deduction of the discount specified in the chit agreement, subject to the condition that he shall subscribe to a ticket in the chit.

Provided that in a case where the foreman has subscribed to more than one ticket, he shall not be eligible to obtain more than one [gross chit amount] in a chit without discount:

(b) to such amount not exceeding [seven per cent.] of the [gross chit amount] as may be fixed in the chit agreement, by way of commission, remuneration or for meeting the expenses of running of the chit.

(c) to interest and penalty, if any, payable on any default in the payment of instalments and to such other amounts as may be payable to him under the provisions of the chit agreement;

(d) to receive and realise all subscriptions from the subscribers and to distribute the prize amount to the prized subscribers;

(e) to demand sufficient security from any prized subscriber for the duepayment of future subscriptions payable by him.

Explanation:- A security shall be deemed to be sufficient for the purposes of this clause if its value exceeds by one-third, or if it consists of immovable properties, the value of which exceeds by one-half, of the amount due from prized subscriber,

(f) to substitute subscribers in place of defaulting subscribers;

[(fa) to exercise his right to lien against the credit balance in other non-prized chits; and

(g) to do all other acts that may be necessary for the due and proper conduct of the chit.

(2) Where any dispute arises with regard to the value of the property offered as security under clause (e) of sub-section (1), it shall be referred to the Registrar for arbitration under section 64.

17. There is no dispute that the petitioner is liable to pay GST on the remuneration or commission paid to the foreman under Section 21(b) of the Act, 1982.

18. The Honb'le Supreme Court of India, in the case of *Oriental Kuries Limited Vs. Lissa &Ors*¹, had an occasion to consider whether future installments payable by a chit subscriber would be a debt owed to the chit foreman and whether such debt could be recovered in case of default in payment of a installment. The Hon'ble Supreme Court of India held that the chit amount paid out to a prized subscriber, is in the nature of grant of a loan and the same can be recovered by the foreman by treating the same as a debt.

¹ (2019) 19 SCC 732

19. The Paragraph No.10 of the said Judgment clarifies this issue as

here under:-

“10. We do not agree with the view expressed by the division bench. When a prized subscriber is allowed to draw the chit amount, which is in the nature of a grant of a loan to him from the common fund in the hands of the foreman, with the concessional facility of effecting re-payment in installments; this is subject to the stipulation that the concession is liable to be withdrawn in the event of default being committed in payment of any of the installments. The chit subscriber at the time of subscription, incurs a debt which is payable in installments. If a subscriber is permitted to withdraw the collected sum on his turn, without being bound to pay the future installments, it would jeopardize the interest of all other subscribers, and the entire mechanism of the chit fund system would collapse.”

20. The Hon’ble Supreme Court of India had also gone on to observe

as follows:-

“12. The object is to empower the foreman to recover the amount in a lump sum from a defaulting subscriber, so as to secure the interest of the other subscribers, and ensure smooth functioning of the Chit Fund. Such a provision would not amount to a penalty.

13. The relationship between the foreman and the subscribers in a chit fund transaction is of such a nature that there is a necessity and justification for making stringent provisions to safeguard the interest of the other subscribers, and the foreman. If a prized subscriber defaults in payment of his subscriptions, the foreman will be obliged to obtain the equivalent amount from other sources, to meet the obligations for payment of the chit amount to the other members, who prize the chit on subsequent draws. For raising such an amount, the foreman may be required to pay high rates of interest.

14. The stipulation of empowering the foreman to recover the entire balance amount in a lump sum, in the event of default being committed by a prized subscriber, is to ensure punctual payment by each of the individual subscribers of the chit fund. Without punctual payments, the system would become unworkable, and the foreman would not be in a position to discharge his obligations to the other members of the chit fund.

15. In view of the aforesaid discussion, the relationship between a chit subscriber and the chit foreman is a contractual obligation, which creates a debt on the day of subscription. On default taking place, the foreman is entitled to recover the consolidated amount of future subscriptions from the defaulting subscriber in a lump sum.”

21. In view of the aforesaid observations of the Hon’ble Supreme Court of India, the interest or the penalty recovered by a foreman, from a

defaulting chit subscriber would clearly fall under Entry No.27 of the notification No.12 of 2017.

22. Another aspect, which arises in the present case, is whether such interest can be treated as service fee or other charges in respect of the moneys borrowed or debt incurred, as stipulated in the definition of interest in the notification No.12 of 2017.

23. Section-21 of the Act, 1982, sets out the rights of a foreman. Section 21(b) places a cap on the service fees that can be collected by a foreman to 7% of the gross chit amount. In such a situation, the right to interest and penalty, if any payable on any default in payment of installments set out, in Section 21(c) falls outside the purview of commission or remuneration specified in Section 21(b). Further, the cap of 7% set out in Section 21(b) would be a bar to the foreman to recover interest and penalty under Section 21(c).

24. For the foresaid reasons, it must be held that the interest or penalty recovered by a foreman, on account of defaulting payment of installments, cannot be treated to be a service fee or another charge, mentioned in the definition of interest, in the notification No.12 of 2017.

25. In that view of the matter, the findings of the Authority for Advance Ruling, dated 05.05.2020 and the Appellate Authority for Advance Ruling, dated 21.09.2020 are set aside and it is held that the interest and penalty, recovered by a foreman, in relation to default in payment of installments would not be exigible to tax under the GST Act.

26. Accordingly, this Writ Petition is allowed. There shall be no order as to costs.

As a sequel, pending miscellaneous applications, if any, shall stand closed.

R RAGHUNANDAN RAO, J

T.C.D. SEKHAR, J

Date: 10.12.2025

BSM

HON'BLE SRI JUSTICE R RAGHUNANDAN RAO

AND

HON'BLE SRI JUSTICE T.C.D. SEKHAR

WRIT PETITION No.14745 of 2021

(per Hon'ble Sri Justice R Raghunandan Rao)

10-12-2025

Note:-

LR copy marked and transferred to LR Folder.

BSM