R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

WRIT PETITION NO. 552 OF 2019

M/s. Rainbow Devices Trust .. Petitioner

Versus

Income Tax Officer (TDS) 2(1)(4), Mumbai & Ors. .. Respondents

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- Mr. Jehangir Mistri, Sr. Counsel a/w Mr. Madhur Agrawal and Mr. P.C. Tripathi i/by Raj Darak for the Petitioner
- Mr. Suresh Kumar for the Respondents

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CORAM : AKIL KURESHI &
M.S. SANKLECHA, JJ.

DATE : FEBRUARY 28, 2019.

P.C.:

1. The petitioner is facing coercive recovery initiated by the Revenue Authorities in respect of the tax dues arising out of an order under Section 201 of the Income Tax Act, 1961 passed on 10.1.2019. The petitioner has already filed an appeal against such order. Pending such appeal, the petitioner had also urged the Assessing Officer to keep the demand in abeyance. The Assessing Officer rejected the request and insisted that the entire amount be deposited. Since the petitioner did not do so within the time permitted, the petitioner's bank accounts are attached and garnishee orders are served on the creditors of the petitioner. At that stage, the petitioner has filed the petition.

2. We record, against such decision of the Assessing Officer on stay petition, the petitioner assessee would have a right to approach the Commissioner of Income Tax or Chief Commissioner of Income Tax. In the present case, in view of the facts on record, we desire that the Chief Commissioner looks into the request of the petitioner for suspension of demand pending appeal. We notice that the Revenue Authorities have acted rather quickly and taken steps under which the petitioner's business would adversely suffer and also recoveries made without the petitioner's consent. In the process, the Assessing Officer has allowed extremely short period to the petitioner to take legal steps as may be advised.

3. Mr. Suresh Kumar, the learned counsel for the Revenue, at our request, had consulted the Revenue Authorities under which the petitioner could raise grievance before the higher Revenue Authorities which would also enable such authorities to pass an appropriate order, as well taking care the interest of the Revenue. Under these circumstances, the petition is disposed of with following directions:-

(i) The petitioner shall file a stay petition before the Chief Commissioner of Income Tax (TDS) within a period of seven days from today.

(ii) If such stay petition is filed within the time permitted, said Authority may dispose of the same as expeditiously as possible.

(iii) For a period of ten days after the date of communication of the order of Chief Commissioner passes, there shall be no coercive recoveries against the petitioner in connection with this issue.

(iv) In the meantime, since we have prevented further coercive recoveries, the attachment of the bank accounts of the petitioner as well as garnishee orders stand lifted.

[M.S. SANKLECHA, J.] **[AKIL KURESHI, J]**