IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2025

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.5167 of 2024
and W.M.P.No.5678 of 2024

M/s.Advanced Infradevelopers Pvt.Ltd.,
Represented by its Authorised Signatory
Mr.R.B.Srinivasan,
Registered Office at
No.414, Bharathi Street,
Puducherry-605 001. ... Petitioner

Vs

The Deputy Commissioner of Income Tax (Benami Prohibition),
Room No.2, Ground Floor, "A" Wing,
Income Tax Investigation Wing Building,
46, M.G.Road, Nungambakkam,
Chennai-600 034. ... Respondent

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the Respondent and quash the impugned order in DIN & Letter No: ITBA/COM/F/17/2023-24/1060698234(1) dated 09.02.2024 as illegal and without jurisdiction and consequently direct the Respondent to lift the attachment and release the property attached by the Respondent.

For Petitioner : Mr.R.Sivaraman

For Respondents : Mrs.M.Sheela,
Special Public Prosecutor
for Income Tax (Benami)

ORDER

Aggrieved by the impugned order dated 09.02.2024 passed by the respondent, whereby, the order of revocation of attachment stands recalled, the present Writ Petition has been filed.

2. Brief facts that are necessary for disposal of the Writ Petition are as follows:-

i) It is the case of the petitioner that, on 24.06.2018, a show cause notice was issued to the petitioner under Section 24 of the Prohibition of Benami Property Transactions Act, 1988 (for short 'PBPT Act') alleging that the Petitioner was involved in benami transactions relating to its parent company, "Marg Limited". Pursuant thereto, properties purchased during the year 2009-10 were provisionally attached under Section 24(4)(b)(i) of the Act. Aggrieved by the said order of attachment, the petitioner filed a Writ Petition before this Court in W.P.No.35256 of 2018, which came to be allowed by order dated 09.04.2021. Challenging the said order, the respondent preferred an appeal in W.A.No.1682 of 2021 which was allowed by the Division Bench of this Court vide order dated

23.08.2022 directing the petitioner to file a statutory appeal before the Appellate Authority against which, the petitioner preferred a Special Leave Petition in SLP No.5631 of 2022 wherein it was held that provisions of the PBPT Act would not be retrospectively applicable.

ii) Pursuant to the directions issued by the Division Bench of this Court, the petitioner preferred an appeal before the Appellate Tribunal for SAFEMA, New Delhi on 29.08.2022. The appellate tribunal, vide order dated 15.12.2022 disposed of the appeal citing the observations made by the Apex Court in the aforesaid SLP. Therefore, the petitioner made repeated representations seeking to lift the attachment of the alleged benami properties however, the same was not considered by the respondent. Due to the inaction on the part of the respondent, the petitioner filed another Writ Petition in W.P.No.19161 of 2023 seeking the release of attached properties wherein, the respondent was directed to consider the petitioner's request.

iii) Pursuant thereto, the petitioner received an order intimating that statutory appeal in C.M.A.No.1380 of 2023 along with the connected matters had been filed by the respondent department which was dismissed by the Division Bench of this Court granting liberty to proceed further depending on the outcome of the review petition pending before the Apex Court. Upon submission of an undertaking affidavit by the petitioner stating that it will compensate the respondent, in the event of review application filed by the respondent is allowed, the order of attachment revoked. However, to the petitioner's shock and surprise, the present impugned order dated 09.02.2024 came to be passed thereby recalling the earlier order of revocation. Challenging the same, the present Writ Petition has been filed.

3. Learned counsel appearing for the petitioner submitted that the present Writ Petition has been filed solely on the ground that, no interim order has been granted by the Apex Court. In the absence of any interim order, cancelling the order of revocation of attachment is impermissible. Therefore, the impugned order passed by the respondent cannot be sustained and the same is liable to be set aside.

4. Per Contra, learned Special Public Prosecutor appearing for the respondent submitted that, as against the order passed by Division Bench of this Court in C.M.A.No.1380 of 2023, the Special Leave Petition has been filed before the Apex Court, which has been admitted and notice has been issued to the respondent and therefore, till the SLP is decided, cancellation or revocation of attachment is impermissible and that the impugned order of attachment is subject to the outcome of the SLP. Accordingly, he prayed for dismissal of the Writ Petition.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. Admittedly, no interim order has been passed by the Hon’ble Apex Court in the Special Leave Petition staying the operation of the orders passed by the Division Bench of this Court. In the absence of any interim order passed by the Apex Court, the respondent has no authority to either cancel or revoke the order of attachment. Therefore, it is made clear that the present impugned order is subject to the outcome of the Special Leave Petition pending before the Apex Court.

7. The Writ Petition stands disposed of in the above terms. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

07.11.2025

Index : Yes / No
Speaking Order / Non-speaking order
Neutral Citation Case : Yes / No

Nhs

To

The Deputy Commissioner of Income Tax (Benami Prohibition),
Room No.2, Ground Floor, “A” Wing,
Income Tax Investigation Wing Building,
46, M.G.Road, Nungambakkam,
Chennai-600 034.

M.DHANDAPANI, J

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