BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.01.2025**

CORAM:

THE HONOURABLE MR.JUSTICE **K.KUMARESH BABU**

W.P.(MD) No.591 of 2025

M/S.Sri Kaleeswari Stores,
rep by its Partner,
R.Venkateshwaran ... Petitioner

/vs./

1.The Commissioner of Income Tax (Appeals),
No.6/7, A.T.D.Street,
Race Course Road,
Coimbatore 641 018.

2.The Deputy Commissioner of Income Tax,
Centre Circle -2, Trichy,
New No.44, Old No.4,
Williams Road,
Trichy 620 001. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 2nd respondent to lift the bank attachments of the petitioner's bank accounts attached based on the petitioner's application dated 01.03.2024, till the pendency of the petitioner's appeal in Form

35 dated 31.01.2024 before the 1st respondent within the period stipulated by this Court.

For Petitioner : Mr.M.Varun Pandian

For Respondents : Mr.N.Dilip Kumar

ORDER

The writ petition has been filed seeking for a direction to the second respondent to lift the bank attachments of the petitioner's bank accounts based on the petitioner's application dated 01.03.2024, till the pendency of the petitioner's appeal in Form 35 dated 31.01.2024 before the first respondent within the period stipulated by this Court.

2. Even though the petitioner had sought for a direction to the second respondent to lift the bank attachment by considering their representation dated 01.03.2024, till the pendency of the petitioner's appeal filed by them on 31.01.2024, it was contested by the learned counsel appearing for the respondents that the petitioner's appeal is yet to be numbered, as the same had been filed with considerable delay before the appellate authority.

3. He would further submit that the petitioner could always take out an application for stay before the appellate authority, which is available to him. Without making any application before the appellate authority in the pending appeal nor having approached the Assessing Officer under Section 220(6) of the Income Tax Act, 1961, the application cannot be considered.

4. Even though such an objection has been made by the learned counsel appearing on behalf of the respondents, it is seen that the petitioner had made an application before the second respondent on 01.03.2024 seeking to raise an order of attachment. Since the application is pending before the second respondent, without entering upon the merits or rights of the petitioner for raising the attachment, I am of the view that a direction can be issued to the second respondent to consider the said representation and pass appropriate orders on merits and in accordance with law. Such exercise shall be carried out by the second respondent within a period of 8 weeks from the date of receipt of a copy of this order.

5. With the aforesaid directions, the Writ Petition stands disposed of. However, there shall be no order as to costs.

09.01.2025

Index : Yes / No
Internet : Yes / No
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K.KUMARESH BABU, J.

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