**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**917 WRIT PETITION NO.9103 OF 2021
WITH WP/417/2022 WITH WP/1009/2022 WITH WP/10094/2021 WITH WP/10095/2021 WITH WP/9240/2021 WITH WP/452/2022 WITH WP/9654/2021 WITH WP/3361/2022 WITH WP/3366/2022 WITH WP/1667/2022 WITH WP/9461/2021 WITH WP/9480/2021 WITH WP/9842/2021 WITH WP/1445/2022 WITH WP/1049/2022 WITH WP/9845/2021 WITH WP/9454/2021 WITH WP/1529/2022 WITH WP/3357/2022 WITH WP/9867/2021 WITH WP/1562/2022 WITH WP/1472/2022 WITH WP/1489/2022 WITH WP/1487/2022 WITH WP/9990/2021 WITH WP/10003/2021 WITH WP/454/2022 WITH WP/1066/2022 WITH WP/3355/2022 WITH WP/3372/2022 WITH WP/1535/2022 WITH WP/4405/2022 WITH WP/9841/2021 WITH WP/13556/2021 WITH WP/9688/2021 WITH WP/10096/2021 WITH WP/1519/2022 WITH WP/13557/2021 WITH WP/13568/2021 WITH WP/9687/2021 WITH WP/9985/2021 WITH WP/1670/2022
SHAILESH SHIVPRASAD KABRA
VERSUS
THE UNION OF INDIA THROUGH SECRETARY AND OTHERS**

Mr.R.R. Chandak, Mr.A.N. Sikchi, Mr.D.R. Jethliya, Mr. Akshay Kulkarni with Mr.A.D. Soman, Advocates for the petitioners in respective petitions.
Mr.B.B. Kulkarni, Ms.Sudha S. Chintamani, Ms. Nikita Gore, Mr.S.S. Deve, Mr.D.B. Gaikwad, Mr.M.A. Golegaonkar, ASG for the respondents in respective petitions.
Mr.Alok Sharma, Ms. Kalpalata Patil Bharaswadkar a/w. Mr.A.R. Kale, Advocates for respondents/Income Tax Dept. in respective petitions.

CORAM	**:**	**RAVINDRA V. GHUGE & ANIL L. PANSARE, JJ.**
DATED	**:**	**17.06.2022**

PC :-

01. Considering the judgment delivered by the Hon'ble Supreme Court, on 4th May, 2022 in Civil Appeal No.3005 of 2022 and connected group

of cases, the learned Advocates for the respective parties before us are united in submitting that the directions of the Hon'ble Apex Court in paragraph 10 would become applicable to the petitions and these petitions will have to be disposed off in terms of the order set out below paragraph Nos.10 and 11 of the said judgment.

02. For the sake brevity, we are reproducing paragraph Nos.10 and 11 hereunder :-

> "10. In view of the above and for the reasons stated above, the present Appeals are ALLOWED IN PART. The impugned common judgments and orders passed by the High Court of Judicature at Allahabad in W.T. No.524/2021 and other allied tax appeals/petitions, is/are hereby modified and substituted as under:-
>
> > (i) The impugned section 148 notices issued to the respective assessees which were issued under unamended section 148 of the IT Act, which were the subject matter of writ petitions before the various respective High Courts shall be deemed to have been issued under section 148A of the IT Act as substituted by the Finance Act, 2021 and construed or treated to be show-cause notices in terms of section 148A(b). The assessing officer shall, within thirty days from today provide to the respective assessees information and material relied upon by the Revenue, so that the assessees can reply to the show-cause notices

within two weeks thereafter:

(ii) The requirement of conducting any enquiry, if required, with the prior approval of specified authority under section 148A(a) is hereby dispensed with as a one-time measure vis-a-viz those notices which have been issued under section 148 of the unamended Act from 01.04.2021 till date, including those which have been quashed by the High Courts.

Even otherwise as observed hereinabove holding any enquiry with the prior approval of specified authority is not mandatory but it is for the concerned Assessing Officers to hold any enquiry, if required.

(iii) The assessing officers shall thereafter pass orders in terms of section 148A(d) in respect of each of the concerned assessees; Thereafter after following the procedure as required under section 148A may issue notice under section 148 (as substituted);

(iv) All defences which may be available to the assesses including those available under section 149 of the IT Act and all rights and contentions which may be available to the concerned assessees and Revenue under the Finance Act, 2021 and in law shall continue to be available.

11. The present order shall be applicable **PAN INDIA** and all judgments and orders passed by different High Courts on the issue and under which similar notices which were issued after

01.04.2021 issued under section 148 of the Act are set aside and shall be governed by the present order and shall stand modified to the aforesaid extent. The present order is passed in exercise of powers under Article 142 of the Constitution of India so as to avoid any further appeals by the Revenue on the very issue by challenging similar judgments and orders, with a view not to burden this Court with approximately 9000 appeals. We also observe that present order shall also govern the pending writ petitions, pending before various High Courts in which similar notices under Section 148 of the Act issued after 01.04.2021 are under challenge."

03. In view of the above, these petitions stand disposed off in terms of the directions of the Hon'ble Supreme Court.

[ANIL L. PANSARE,J.] **[RAVINDRA V. GHUGE,J.]**