2024:BHC-AUG:15066-DB

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 WRIT PETITION NO. 10366 OF 2022

PRADEEP TUKARAM KOKADWAR
VERSUS
THE PRINCIPAL CHIEF COMMISSIONER AND ANOTHER

...
Shri Raviraj R. Chandak, Advocate for the Petitioner.
Shri Alok Sharma, Advocate for Respondent Nos.1 and 2/ Department.
...

CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.

DATE :- 19th July, 2024

Per Court :-

1. We have heard the learned Advocates for the respective sides. Several issues have been raised in this Petition, *inter alia,* that the impugned notice could not have been issued by the Jurisdictional Assessing Officer (JAO) and which could have been issued in terms of the provisions of Section 151(A) of the Income Tax Act, 1961 by the Faceless Assessing Officer (FAO).

2. The learned Advocates for the respective sides

submit that the judgment dated 03.05.2024, delivered at the Principal Seat in WP No.1778/2023 **(Hexaware Technologies Limited Vs. the Assistant Commissioner of Income Tax and Others)**, settles this issue. The notice could not have been issued, save and except by the Faceless Assessing Officer. If it is not issued by the FAO, this Court has ruled in **Hexaware Technologies** (supra), that such notice is unsustainable and, accordingly, the notice was quashed and set aside.

3. It is, thus, obvious that the ground of notice being not in accordance with the scheme framed u/s 151(A) of the Income Tax Act, 1961, the view taken in **Hexaware Technologies** (supra), would be applicable to this case.

4. In view of the above and considering the conclusions drawn in **Hexaware Technologies** (supra), the notice issued u/s 148 would be unsustainable. The same is, therefore, quashed and set aside. If any further demand notice or penalty notice in furtherance thereof, would also not survive and stands set aside.

5. With the above directions, **this Writ Petition is disposed off**. Needless to state, all the contentions of both the sides, save and except, those which are covered by the **Hexaware Technologies** (supra), and which are available to the parties in a proceeding, which can be initiated by the FAO under the scheme framed u/s 151(A) of the Income Tax Act, are left open.

kps **(Y. G. KHOBRAGADE, J.)** **(RAVINDRA V. GHUGE, J.)**