2024:BHC-AUG:16886-DB



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

## 907 WRIT PETITION NO. 358 OF 2023

GAJANAN SAHEBRAO MORE
*VERSUS*
INCOME TAX OFFICER AND OTHERS
….

Mr Ram Deepak Heda, Advocate for Petitioner
Mr Alok Sharma, Advocate for Respondent Nos.1, 2 & 4

**CORAM : RAVINDRA V. GHUGE**
**AND**
**Y. G. KHOBRAGADE, JJ.**

**DATE : 30th July, 2024**

**PER COURT:**

1. In this Writ Petition, the impugned notice under Section 148 of the Income Tax Act, 1961, is dated 25/07/2022, for the assessment year 2013-2014. Notice by the Department is issued beyond six years.

2. 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). The issue of the delayed issuance of the notice is also covered by the Judgment delivered by this Court at the Principal Seat on **15/01/2024 in Writ Petition No.1945/2023 (The New India Assurance Company Ltd. Vs. Assistant Commissioner, Income Tax and others).**

3. 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.

4. It is, thus, obvious that the ground that the notice is not in accordance with the scheme framed u/s 151(A) of the Income Tax Act, 1961, is covered by the view taken in **Hexaware Technologies (supra)**.

5. 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. Any further demand notice or penalty notice in furtherance thereof, would also not survive and stands set aside, if any.

6. With the above directions, **this Writ Petition is disposed off**. Needless to state, all the contentions of both the sides, 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, save and except, those which are covered by the **Hexaware Technologies (supra).**

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

sjk