IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3053 OF 2022
WITH
WRIT PETITION NOS. 3969, 3987, 4067, 4215, 4255, 4293, 4416, 4645, 4724, 4855, 4898, 5043, 5104, 5183, 4068 & 5274 OF 2022
WITH
WRIT PETITION (L) NOS. 27151, 27241, 27620, 38596 & 41144 OF 2022
WITH
WRIT PETITION NOS. 397, 466, 500, 765, 856, 1093, 1128, 1175, 1266, 1414, 1503, 1602, 1663, 1681, 1834, 2412, 2426, 2439, 2565, 2588, 2890, 2979, 3049, 3057, 3136, 3322 & 3715 OF 2023
WITH
WRIT PETITION (L) NOS. 358, 1415, 2950, 3143, 4370, 4397, 11041, 11238, 12052, 13993, 17724, 17314 & 32788 OF 2023
WITH
WRIT PETITION NOS. 135, 138, 143, 369 a/w Interim Application (L) No. 16766 of 2023, 2427, 1448 & 2258 OF 2024
WITH
WRIT PETITION (L) NOS. 8210, 8324, 10281, 12447, 15032, 13431, 14641, 12815 & 15436 OF 2024
WITH

(CIVIL APPELLATE JURISDICTION)
WRIT PETITION NOS. 5573, 5816, 6030, 10536, 14531, 14900, 14901 & 14902 OF 2022
WITH
WRIT PETITION NOS. 254, 1882, 5028 & 13941 OF 2023
WITH
WRIT PETITION NO. 6189 OF 2024
WITH
WRIT PETITION (ST) NO. 13314 OF 2024

Hitesh Ramniklal Shah ...**Petitioner**
Versus
The Assistant Commissioner of Income Tax,
Circle-23(1), Mumbai & Ors. ...**Respondents**

Mr. Jeet Kamdar a/w Mr. Atul K. Jasani for Petitioner in WP/3053/2022, WP/4898/2022, WP/1175/2023, WP/1414/2023, WP/1834/2023, WP/2426/2023 & WP/3715/2023.
Mr. P. F. Kaka, Senior Advocate a/w Mr. Manish Kanth i/b Mr. Atul K. Jawani for Petitioner in WPL/14641/2024.

Mr. J. D. Mistri, Senior Advocate a/w Mr. Madhur Agrawal i/b Mr. Atul K. Jasani for Petitioner in WP/1882/2023.
Mr. J. D. Mistri, Senior Advocate i/b Mr. Nishit Gandhi for Petitioner in WPL/17314/2023.
Mr. Madhur Agrawal a/w Mr. Sameer Dalal for Petitioner in WP/3969/2022.
Mr. Sukhsagar Syal i/b Mr. Atul K. Jasani for Petitioner in WP/3987/2022, WPL/27151/2022, WP/1602/2023, WP/1663/2023, WP/1681/2023 & WP/2412/2023.
Mr. Devendra H. Jain a/w Ms. Radha Halbe for Petitioner in WP/4067/2022, WP/4293/2022, WP/4724/2022, WP/5274/2022, WPL/13431/2024 & WPL/10281/2024.
Ms. Radha Halbe for Petitioner in WP/5816/2022, WP/6030/2022 & WP/14531/2022.
Ms. Ritika Agrawal a/w Mrs. Ayesha Ansari, Ms. Rachna Bhanushali i/b M/s. Acelegal for Petitioner in WP/10536/2022 & WP/6189/2024.
Mr. Sham Walve a/w Mr. Abhishek Khandelwal for Petitioner in WP/4215/2022, WP/2565/2023, WP/2588/2023 & WPL/17724/2023.
Mr. Abhishek Khandelwal for Petitioner in WP/14900/2022, WP/14901/2022 & WP/14902/2022.
Mr. Nishant Thakkar a/w Mr. Hiten Thakkar i/b Lumiere Law Partners for Petitioner in WP/4416/2022, WP/4645/2022 & WPL/15032/2024.
Mr. Nishant Thakkar a/w Mr. Hiten Thakkar, Ms. Jasmin Amalsadvala & Mr. Bhavesh Bhatia i/b Lumiere Law Partners for Petitioner in WP/13941/2023.
Ms. Aasifa Khan for Petitioner in WP/254/2023.
Mr. Sukhsagar Syal i/b Mr. Govind Javeri for Petitioner in WP/4855/2022 & WP/397/2023.
Ms. Priyanka Jain a/w Mr. Pankaj Soni i/b Vaish Associates for Petitioner in WP/5043/2022.
Mr. Nitesh Joshi i/b Mr. Atul K. Jasani for Petitioner in WP/5104/2022, WP/5183/2022, WP/1093/2023, WP/1128/2023 & WP/2979/2023.
Mr. Niraj Sheth i/b Mr. Atul K. Jasani for Petitioner in WPL/27241/2022, WP/2890/2023 & WPL/4397/2023.
Mr. Jay Bhansali i/b RMA Associates for Petitioner in WPL/27620/2022.
Mr. Madhur Agrawal i/b Mr. Atul K. Jasani for Petitioner in WPL/41144/2022, WPL/358/2023, WP/500/2023, WPL/1415/2023 & WPL/11041/2023.
Mr. Atul K. Jasani for Petitioner in WP/4068/2022.
Mr. Mandar Vaidya a/w Mr. Dharmesh Shah & Mr. Dhaval Shah for Petitioner in WP/466/2023.
Mr. Dharmesh Shah a/w Mr. Dhaval Shah for Petitioner in

WPST/13314/2024.
Mr. Arun Jain i/b Mr. Kartik Vig for Petitioner in WP/765/2023, WP/3136/2023 & WP/369/2024.
Ms. Rutuja N. Pawar a/w Ms. Hetal Laghave & Ms. Florencia D’Souza for Petitioner in WP/856/2023, WP/1503/2023, WPL/13993/2023, WPL/32788/2023, WPL/8210/2024 & WPL/8324/2024.
Mr. Mandar Vaidya for Petitioner in WP/2439/2023 & WP/5028/2023.
Mr. Gautam Thacker a/w Mr. Sameer Dalal for Petitioner in WP/1266/2023.
Mr. Rahul Hakani i/b Ms. Niyati Mankad for Petitioner in WPL/2950/2023, WPL/3143/2023 & WPL/12052/2023.
Mr. Rahul Hakani for Petitioner in WP/5573/2022.
Mr. Shashi Bekal for Petitioner in WP/3049/2023 & WP/3057/2023.
Mr. Anuj Kisnadwala a/w Mr. Govind Javeri for Petitioner in WP/3322/2023.
Mr. Jitendra Singh for Petitioner in WPL/4370/2023.
Mr. Fenil Bhatt i/b Mint and Confreres for Petitioner in WPL/11238/2023.
Mr. Madhur Agrawal a/w Ms. Priyanka Bora for Petitioner in WP/135/2024, WP/138/2024, WP/143/2024 & WP/2258/2024.
Mr. Sham Walve a/w Mr. Sameer Dalal for Petitioner in WPL/12447/2024.
Mr. Nishant Thakkar a/w Mr. Rajesh Poojary i/b Mulla and Mulla and CBC for Petitioner in WPL/15436/2024.
Ms. Aarti Sathe i/b Ms. Aasavari Kadam for Petitioner in WPL/12815/2024 & WP/2427/2024.
Mr. Satish Mody a/w Ms. Aasifa Khan for Petitioner in WP/1448/2024.

Mr Suresh Kumar for Respondents in WP/3053/2022, WP/3969/2022, WP/3987/2022, WP/4215/2022, WP/4216/2022, WP/4898/2022, WP/5043/2022, WP/5183/2022, WPL/27151/2022, WPL/27620/2022, WP/500/2023, WP/765/2023, WP/856/2023, WP/1093/2023, WP/1128/2023, WPL/1415/2023, WP/1681/2023, WP/1834/2023, WP/2979/2023, WP/3136/2023, WPL/3143/2023, WP/369/2024, WP/5573/2022, WP/5816/2022, WP/6030/2022, WP/10536/2022, WP/14531/2022, WP/254/2023, WP/4068/2022 & WP/13941/2023.
Ms. Swapna Gokhale for Respondents-Revenue in WP/4067/2022, WP/4293/2022, WP/4724/2022, WP/5274/2022, WP/466/2023 & WP/1414/2023.
Mr. Akhileshwar Sharma for Respondents-Revenue in

WP/4255/2022, WP/4645/2022, WP)/41144/2022, WP/1266/2023, WP/1602/2023, WP/2412/2023, WP/2426/2023, WP/2439/2023, WP/2588/2023, WP/3049/2023, WP/3322/2023, WPL/4370/2023, WPL/4397/2023, WPL/11238/2023, WPL/17724/2023, WPL/15436/2024, WP/14900/2022, WP/14901/2022, WP/14902/2022, WP/1882/2023, WP/2427/2024 & WPST/13314/2024.

Mr. Devvrat Singh for Respondents-Revenue in WP/4855/2022, WP/397/2023, WP/2890/2023 & WP/2258/2024.

Mr. Eshaan Saroop i/b Mr. Vikas T. Khanchandani for Respondents-Revenue in WP/5104/2022.

Mr. Arjun Gupta for Respondents-Revenue in WPL/12815/2024 & WPL/38596/2022.

Mr. P. C. Chhotaray for Respondents-Revenue in WP/1663/2023.

Ms. Shreya Singhi i/b Ms. Sushma Nagaraj for Respondents-Revenue in WP/2565/2023, WP/3715/2023, WPL/13993/2023, WPL/17314/2023 & WP/135/2024.

Ms. Sushma Nagaraj for Respondents-Revenue in WP/5028/2023.

Mr. Siddharth Chandrashekhar for Respondents-Revenue in WPL/2950/2023, WP/138/2024 & WP/143/2024.

Mr. Subir Kumar a/w Mr. Abhinav Palsikar for Respondents-Revenue in WP/3057/2023 & WPL/12052/2023.

Mr. N. C. Mohanty for Respondents-Revenue in WPL/358/2023 & WPL/11041/2023.

Ms. Samiksha Kanani for Respondents-Revenue in WPL/32788/2023, WP/14900/2022, WP/14902/2022, WP/14901/2022, WP/1882/2023 & WPST/13314/2024.

Mr. Dhananjay B. Deshmukh for Respondents-Revenue in WPL/8210/2024 & WPL/8324/2024.

Mrs. Shehnaz V. Bharucha for Respondents-Revenue in WP/6189/2024.

Mr. Ravi Rattesar for Respondents-Revenue in WPL/10281/2024, WP/1448/2024 & WPL/12447/2024.

Ms. Mamta Omle for Respondents-Revenue in WPL/13431/2024, WPL/14641/2024 & WPL/15032/2024.

CORAM: K. R. SHRIRAM &
DR. NEELA GOKHALE, JJ.
DATED: 7th May 2024

PC :

1. Counsels, whose vakalatnamas are not on record, undertake to file their vakalatnamas within a week from today. Undertaking accepted.

2. One of the grounds raised in these petitions raises an issue that the impugned notice issued in respective petition is invalid and bad-in-law being issued by the Jurisdictional Assessing Officer ("**JAO**") as the same was not in accordance with the provisions of Section 151A of the Income Tax Act, 1961 ("**the Act**") and the scheme framed thereunder. According to Petitioners, the notice could have been issued only by the Faceless Assessing Officer ("**FAO**"). Whether such a notice is valid or invalid, has been decided by this Court in the judgment passed in the case of ***Hexaware Technologies Limited v. Assistant Commissioner of Income Tax, Circle-15(1)(2), Mumbai and Ors.***[1] and the Court has given a finding that such a notice will be invalid and bad-in-law.

3. We are, therefore, informed by the Counsels for respective Petitioner that these petitions will be covered by the judgment passed in *Hexaware Technologies Limited* (*supra*). Counsels for respective Respondent concur.

4. In some of the petitions, the ground of notice being invalid since it was not in accordance with the scheme framed under Section 151A of the Income Tax Act, 1961 was raised orally. Since we have held in the judgment in *Hexaware Technologies Limited* (*supra*) that

1. Writ Petition No. 1778 of 2023 decided on 3rd May 2024.

such a notice will be invalid, certainly those Petitioners should also be given the benefit of decision taken by this Court.

5. In the circumstances, the notices issued in these petitions by the JAO under Section 148 of the Act are hereby quashed and set aside. In case any reassessment orders are passed, the same also will stand quashed and set aside. So also, the consequential demand notices or penalty notices, if any, will also stand quashed and set aside.

6. Petitions disposed accordingly.

7. In view thereof, interim application, if any, also stands disposed.

8. All the rights and contentions of the parties are kept open, which are raised in these petitions and not covered by the judgment in *Hexaware Technologies Limited* (*supra*), to be raised in any other petition should the need arise.

(DR. NEELA GOKHALE, J.) **(K. R. SHRIRAM, J.)**

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