**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 2510 OF 2024**

FM India Supply Chain Private Ltd. ....Petitioner

V/s.
Assistant Commissioner of Income Tax
Circle 1(1), Pune ...Respondent

**ALONGWITH**
**INTERIM APPLICATION (ST) NO. 14687 OF 2024**
**IN**
**WRIT PETITION NO. 2510 OF 2024**

Assistant Commissioner of Income Tax
Circle 1(1), Pune ....Applicant

In the Matter Between
FM India Supply Chain Private Ltd. ....Petitioner

V/s.
Assistant Commissioner of Income Tax
Circle 1(1), Pune ...Respondent

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Mr. Nikhil Rungta for Petitioner.
Mr. Arjun Gupta for Respondents-Revenue.

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**CORAM : K.R. SHRIRAM &**
**DR. NEELA GOKHALE, JJ.**
**DATED : 10th MAY 2024**

**P.C. :**

**INTERIM APPLICATION (ST) NO. 14687 OF 2024**

1. For the reasons mentioned in the Interim Application (ST) No. 14687 of 2024 delay is condoned.

2. Interim Application (ST) No. 14687 of 2024 stands disposed.

**WRIT PETITION NO. 2510 OF 2024**

3. In our order dated 12th March 2024, we have recorded petitioner's submission that the entire basis of issuance of notice under Section 148A(b) of the Income Tax Act, 1961 (the Act) is change of opinion and as held by this court in ***Siemens Financial Services Private Limited Vs. Deputy Commissioner of Income Tax & Ors.***[1], will not be a valid ground to reopen. In the affidavit in reply the stand that is that after the insertion of Section 148A of the Act change of opinion cannot be the valid ground to challenge the reopening. We disagree since the law, as held by this court in *Siemens Financial Services Private Limited* (supra), is change of opinion cannot be a ground to reopen the assessment.

4. Mr. Rungta submitted that in the recent judgment pronounced by this court in ***Hexaware Technologies Limited v. Assistant Commissioner of Income Tax Circle 15(1)(2) Mumbai and Ors.***[2], the court has held that the notice under Section 148 of the Act issued by the Jurisdictional Assessing Officer (JAO) will be invalid as the same will be contrary to the provisions of Section 151A of the Act and the scheme framed there under. On the law as laid down by this court in *Siemens Financial Services Private Limited* (supra) and *Hexaware Technologies Limited* (supra), Mr. Gupta in fairness agrees.

1 (2023) 457 ITR 647 (BOM)
2 2024 SCC OnLine 1249

5. Therefore, having considered the petition and the documents annexed thereto, we would agree with the submissions made by Mr. Rungta that the reopening is based on change of opinion and the notice issued under Section 148 of the Act will also be hit by the law as laid down in *Hexaware Technologies Limited* (supra).

6. In the circumstances, notice dated 28th March 2023 issued under Section 148A(b) of the Act, the order dated 13th April 2023 passed under Section 148A(d) and notice dated 13th April 2023 issued under Section 148 are hereby quashed and set aside.

7. Petition disposed.

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