IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1738 OF 2024
WITH
WRIT PETITION NO. 1748 OF 2024
WITH
WRIT PETITION NO. 1749 OF 2024
WITH
WRIT PETITION NO. 1741 OF 2024
WITH
WRIT PETITION NO. 1739 OF 2024
WITH
WRIT PETITION NO. 1744 OF 2024
WITH
WRIT PETITION NO. 1745 OF 2024
WITH
WRIT PETITION NO. 1742 OF 2024

RR Constructions and Infrastructure India Pvt. Ltd. … Petitioner

Versus

Assistant Commissioner of Income Tax, Central Circle 1(3) & Anr. …Respondents

Mr. Rahul Hakani a/w. Mr. Ravi Sawana i/b. Niyati Mankad Hakani for the petitioner.
Mr. Suresh Kumar for the respondents.

CORAM: G. S. KULKARNI & SOMASEKHAR SUNDARESAN, JJ.
Date : 4 September, 2024

PC:

1. Rule. Rule made returnable forthwith. Learned Counsel for the Respondents waives service. By consent of the parties, heard finally.

2. This is a batch of petitions in which the petitioner-assessee is common. The challenge in these petitions is to a notice issued under section 148 of the Income-tax Act, 1961 and the assessment orders. The notices are annexed at Exhibit 'A'. There are also consequential assessment orders (except in Writ Petition No. 1742 of 2024), which are annexed at Exhibit 'E', which are dated 31 March, 2024 in all these petitions. For convenience, we note the assessment years, impugned notice under section 148 and the assessment order, in the following statement as provided to us by the learned counsel for the petitioner:

Writ Petition No.	A.Y.	Notice u/s. 148	Asst. Order
1738/2024	2017-18	09.03.2023	31.03.2024
1748/2024	2013-14	09.03.2023	31.03.2024
1749/2024	2015-16	16.03.2023	31.03.2024
1741/2024	2014-15	09.03.2023	31.03.2024
1739/2024	2016-17	09.03.2023	31.03.2024
1744/2024	2018-19	09.03.2023	31.03.2024
1745/2024	2019-20	28.03.2023	31.03.2024
1742/2024	2020-21	17.05.2023	31.03.2024

3. Learned counsel for the petitioner, at the outset, would submit that the impugned assessment would fall under the Central Charges and as the revenue would contend falling within the purview of the orders dated 31 March, 2021 and 6 September, 2021 issued by the Central Board of Direct

Taxes. Learned counsel for the petitioner would submit that the challenge of the petitioner is to a notice under section 148, being contrary to the provisions of Section 151A of the Act, as issued de'hors the faceless mechanism as postulated under section 144B of the Act. He submits that the issue would stand covered by the decision of this Court in **Hexaware Technologies Limited Vs. Assistant Commissioner of Income Tax & Ors.**[1].

4. Insofar as the revenue's contentions in regard to the applicability of the orders dated 31 March, 2021 and 6 September, 2021are concerned, it is submitted that the issue would stand covered by the decision of this Court in **Ganesh Nivrutti Jagtap vs. Assistant Commissioner of Income-tax, Central Circle-5(3), Mumbai & Ors.**[2] as also the observations made by this Court in **Abhin Anilkumar Shah vs. Income Tax Officer, International Tax, Ward Circle 4(2)(1) & Ors.**[3] wherein this Court had the occasion to consider the purport of the said orders and in the context of applicability of the provisions of Section 151A of the Act read with Section 144B on the issue of applicability of the scheme notified under section 151A to the Central charges.

1 (2024) 464 ITR 430

2 Writ Petition (L) No. 10683 of 2023 decided on 28.08.2023

3 Writ Petition (L) No. 16750 of 2024 dated 26.08.2024

5. Mr. Suresh Kumar, learned counsel for the revenue would not dispute as to what is held by this Court in the decisions referred hereinabove as also to the fact that in the present case, the notice under section 148 was issued outside the faceless mechanism, the proceedings would stand covered by the decision in Hexaware (supra) as also the Revenue's contention on central charges would also stand covered by the decision in Ganesh Nivrutti Jagtap (supra).

6. To avoid prolix, we do not intend to extract what has held by this Court in Hexaware (supra) suffice it to observe that it is held that the Jurisdictional Assessing Officer would not have jurisdiction to issue notice under section 148 de' hors the faceless mechanism as mandated under section 144B read with the Scheme under section 151A dated 29 March, 2022. In this view of the matter, we are inclined to allow these petitions in terms of prayer clause (a) of each of these petitions. Ordered accordingly.

7. Rule is made absolute in the aforesaid terms. No costs.

(SOMASEKHAR SUNDARESAN, J.) **(G. S. KULKARNI , J.)**