IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10385 OF 2024

KF Bioplant Pvt. Ltd. … Petitioner

vs.

The Assistant Commissioner of Income Tax, Central Circle -7, Pune & Ors. …Respondents

Mr. Jehangir Mistri, Senior Advocate a/w. Mr. Nishant Thakkar, Ms. Jasmin Amalsadvala i/b. Lumeire Law Partners for the petitioner.
Mr. Akhileshwar Sharma for the respondents.

CORAM: G. S. KULKARNI & SOMASEKHAR SUNDARESAN, JJ.

DATED: 29 July, 2024

P.C.

1. Leave to amend. Amendment be carried out forthwith. Re-verification is dispensed with.

2. We have heard learned counsel for the parties for sometime.

3. Let reply affidavit to the petition be filed within two weeks from today.

4. The challenge as raised by the petitioner is to the notice dated 26 April, 2024 issued under section 148 of the Income-tax Act, which is for assessment year 2017-18. The reasons as recorded state that it is on the basis of a survey conducted under section 133A of the Act. The contention as urged on behalf of the petitioner is that the impugned notice is issued by the Jurisdictional Assessing Officer (for short **"JAO"**), hence the same would be rendered contrary to the provisions of Section 151A of the I.T. Act. It is also contended

that in these circumstances, the proceedings would stand covered by the decision of Division Bench of this Court in ***Hexaware Technologies Limited Vs. Assistant Commissioner of Income Tax & 4 Ors.***[1].

5. Mr. Sharma, learned counsel for the respondents responding to such contention would submit that insofar as survey cases are concerned, they would stand outside the purview of Section 148A, hence it was appropriate for JAO in issuing the impugned notice. He submits that to this extent, the notification dated 29 March, 2022 issued by the Central Government giving effect to the provisions of Section 151A of the Act, introducing the faceless mechanism would not be applicable and more particularly, paragraph 3 of the said notification, which defines "scope of the scheme".

6. As these are the contours of adjudication in the present proceedings, we direct the respondents to place on record reply affidavit on all the grounds of challenge as raised by the petitioner. Let such affidavit be placed on record within two weeks from today.

7. Stand over to **19 August, 2024.**

8. Till the adjourned date of hearing, the impugned notice shall remain stayed.

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

1 (2024) 464 ITR 430

Signed by: Vidya S. Amin
Designation: PS To Honourable Judge
Date: 30/07/2024 11:21:22