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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11368 OF 2024

Shri. Vaijinath Nagnath Bhosale ...Petitioner

Versus

The Income Tax Officer & Anr. …Respondents

Mr. Sagar Tilak with Mr. Sachin Hande with Mr. Payal Rathod i/b. Mr. Sachin Hande, for Petitioner.
Mr. Akhileshwar Sharma, for Respondents.

CORAM: **G. S. KULKARNI & ADVAIT M. SETHNA, JJ.**

DATE **11 NOVEMBER 2024**

P.C.

1. Leave to amend in terms of the draft amendment handed over which is to incorporate a ground assailing the impugned notice issued under Section 148 of the Income Tax Act, 1961 (for short '**the IT Act**'). The said notice has been issued by the Jurisdictional Assessing Officer and would be required to be held to be bad and illegal considering the law laid down by this Court in the case of Hexaware Technologies Ltd. vs. ACIT1.

2. Mr. Sharma would fairly state that the Respondents would not have any objection if such amendment is permitted at the stage of admission. We permit

such amendment to be carried out within two weeks from today. Re-verification is dispensed with.

3. On the aforesaid backdrop, we have heard learned counsel for the parties.

4. This Petition impugns a notice dated 29 March 2024 issued under Section 148 of the Income Tax Act, by Respondent No.1, who is the Jurisdictional Assessing Officer.

5. Mr. Tilak, the learned Counsel for the Petitioner submitted that the Jurisdictional Assessing Officer would not have jurisdiction to issue the impugned notice, considering the principle of law as laid down by this Court in ***Hexaware Technologies Limited v/s. Assistant Commissioner of Income Tax & Others***[1].

6. Mr. Sharma, the learned Counsel for the Respondent would not dispute such contention as urged on behalf of the Petitioner. He, however, submitted that the view taken by this Court in ***M/s. J. D. Printer Pvt. Ltd., v/s. Income Tax Officer – 15(10(2) & Ors.***[2] be followed in the present proceedings.

7. We have heard the learned Counsel for the parties and having perused the record, we are of the opinion that, for the reasons as recorded by us in **M/s. J. D. Printer** (supra) in regard to our observations on the proceedings involving

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1 (2024) 464 ITR 430

2 Writ Petition No.12187 of 2024

the decision in **Hexaware Technologies Ltd.** (supra), we need to pass the following order:-

ORDER

(a) Rule. Respondents waive service.

(b) Pending the hearing and final disposal of this Petition, the impugned notice dated 29 March 2024 issued under Section 148 of the Income Tax Act, shall remain stayed.

(c) Liberty to the parties to apply after appropriate orders are passed by the Supreme Court and/or final decision of the Supreme Court in Hexaware.

(ADVAIT M. SETHNA, J.) **(G. S. KULKARNI , J.)**