IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3060 OF 2025

Harish Bhagwandas Kabra
VERSUS
The Principal Commissioner Income Tax Nashik 1 And Others
...
Advocate for the Petitioner : Mr. Chandak Raviraj R.
Advocate for Respondent Nos.1 to 3 : Mr. Alok Sharma
...

CORAM : S.G. MEHARE &
SHAILESH P. BRAHME, JJ.

DATED : MARCH 04, 2025

PER COURT :

1. Heard learned counsel for the petitioner.

2. Issue notice to the respondents. Learned counsel Mr. Alok Sharma appears for the contesting respondents.

3. The petitioner has impugned the notice issued under Section 148 of the Income Tax Act by the Jurisdictional Assessing Officer. The only authority to exercise such powers is Faceless Assessing Officer. Hence, he prayed for interim stay, since the case of *Hexaware Technologies Ltd. Vs. Assistant Commissioner of Income Tax, (2024) 464 ITR 430*, which holds the field is subjudiced before the Hon'ble Supreme Court. In many cases, the view of Hexaware Technologies has been adopted.

4. However, learned counsel for the contesting respondents submits that the Madras High Court has taken a different view in the

case of Mark Studio India Private Limited Vs. Income Tax Officer and Another in Writ Petition No.25223 of 2024 and Writ Petition No.25227 of 2024 decided on 20.12.2024 holding that the Jurisdictional Assessing Officer as well as the Faceless Assessing Officer have concurrent powers. He would submit that this is not a fit case for stay.

5. In identical matters, this Court considering the submissions of respective counsels and bearing in mind the view taken in Hexaware Technologies, granted interim protection. Hence, we deem it appropriate to grant interim protection.

6. There shall be interim protection to the petitioner in view of prayer clauses (E) and (F), till the Hon'ble Supreme Court decides the same issue in Hexaware Technologies as follows :

> "E] Pending hearing and final disposal of this writ petition, the effect, execution, implementation and further proceeding in pursuance to the impugned notice dated 27.03.2024 **(Exh-"B")** issued u/sec. 148 of the Income Tax Act by the respondent no.2 for the assessment year 2020-21 be kindly stayed.
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> F] Pending hearing and final disposal of this writ petition, the effect, execution, implementation and further proceeding in pursuance to the impugned notice dated 07.02.2025 U/sec. 142(1) of the Income Tax Act **(Exh-"F")** issued by respondent no.2 for the assessment year 2020-21 be kindly stayed."

7. Time granted to the learned counsel for contesting respondents to take further instructions and file affidavit in reply, if

any. Since the issue is seized with the Hon'ble Supreme Court, the interim protection shall continue till the issue is decided and this matter be listed after the decision of the Hon'ble Supreme Court in Hexaware Technologies.

(SHAILESH P. BRAHME, J.) **(S.G. MEHARE, J.)**

Mujaheed//