Sayali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1777 OF 2025

Albin Babu Anthony …Petitioner

Versus

The Income Tax Officer-1
(1), Pune …Respondent

Mr Ravindra Poojari, for Petitioner.
Mr Akhileshwar Sharma, for Respondent.

CORAM: M.S. Sonak &
Jitendra Jain, JJ.

DATED: 10 February 2025

PC:-

1. Heard learned Counsel for the parties.

2. This petition challenges the assessment order dated 16 March 2024. Mr Sharma objected to its consideration on the grounds that the Petitioner has an alternate and efficacious remedy of appeal.

3. Mr. Sharma, learned Counsel for the Respondent, relied on the decision of this Court dated 12 August 2024 in Writ Petition No. 11166 of 2024 (**Rajan Pradeepkumar Dubey v. Income Tax Officer Ward 3-2, Kalyan),** wherein a Writ Petition challenging an assessment order was not entertained, despite the challenge based on *Hexaware (Supra)* being raised due to the availability of an alternative remedy of Appeal under the Income Tax Act, 1961.

4. Though the learned Counsel for the Petitioner relies upon the decision of this Court in **Hexaware Technologies Limited Vs. Assistant Commissioner of Income Tax and Others**[1], since the Petitioner has an alternate remedy of statutory Appeal, we propose not to entertain this Petition and relegate the Petition to availing such remedy. This was the course followed in *Rajan Dube [Supra],* though there, the Petitioner instituted the writ petition after filing an appeal to save the limitation bar.

5. Mr Poojari, the learned Counsel for the Petitioner, submits that the Appeal will be instituted within four weeks of today. If it is indeed instituted within four weeks of today, then the Appellate Authority should entertain it without going into the limitation issue. This is because the petitioner was pursuing the matter before this court on legal advice and bona fide.

6. The learned Counsel for the Petitioner states that the Petitioner will now furnish the Income Tax Authorities with his correct address and E-mail ID so that there will be no confusion about service of notice, at least hereafter. This should also be done within four weeks from today.

7. The Petitioner will also be free to apply for appropriate interim reliefs before the Appellate Authority or the Principal

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[1] (2024) 464 ITR 43

Commissioner of Income Tax. We note that in the order dated 12 August 2024 made by the Co-ordinate Bench, considering the decisions in **Hexaware Technologies Limited** (supra) and **Siemens Financial Services Pvt Ltd Vs. Deputy Commissioner Of Income Tax, Circle 8(2)(1), Mumbai**[2], this Court had directed a stay on the assessment order until the disposal of the Appeal.

8. All contentions of all the parties, including the contention based on **Hexaware Technologies Limited** (supra), are left open.

9. This petition is disposed of in the above terms without any order for costs.

10. All concerned are to act on an authenticated copy of this order.

(Jitendra Jain, J) **(M.S. Sonak, J)**

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2 (2023) 547 ITR 647