

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8120 OF 2025

ABH Developers Pvt. Ltd.,

.. Petitioner.

Versus

Assistant Commissioner of Income Tax
Central Circle 1, Nashik & Another

.. Respondents.

Adv. Shashi Bekal, for the Petitioner.

Adv. A. K. Saxena, for the Respondents.

**CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.**

DATE: JULY 14, 2025

P. C.

1 **Rule.** Respondents waive service. With the consent of the parties, Rule made returnable forthwith and heard finally.

2 The above Writ Petition *inter alia* challenges the Notice issued under Section 148 of the Income Tax Act, 1961 on various grounds. One of the grounds is that the Notice has been issued by the Jurisdictional Assessing Officer when the law mandates that it has to be issued by the Faceless

Assessing Officer. This is a fatal defect and therefore the Notice has to be quashed, is the argument of the Petitioner.

3 It is the Petitioners' contention that this issue is squarely covered by a decision of a Division Bench of this Court in the case of ***Hexaware Technologies Ltd. V/S Assistant Commissioner of Income-tax, Circle 15(1)(2) [(2024) 162 taxmann.com 225 (Bombay)]***.

4 On the other hand, the learned advocate appearing on behalf of the Revenue stated that though it is true that this issue is concluded by the decision in *Hexaware Technologies Ltd (supra)*, the said decision has been challenged before the Hon'ble Supreme Court, and the Hon'ble Supreme Court is likely to take up the matter immediately on re-opening. He has fairly stated that there is no stay to the judgment in *Hexaware Technologies Ltd (supra)*.

5 Considering these facts, we do not propose to keep the matter pending in this Court. Once it is fully covered by the decision in *Hexaware Technologies Ltd (supra)* we are bound to follow it.

6 We accordingly set aside the impugned Notice issued under Section 148 and all other proceedings/orders emanating therefrom.

7 We however grant liberty to the Revenue to revive the above Writ
Petition in the event the decision in *Hexaware Technologies Ltd (supra)* is set
aside by the Hon'ble Supreme Court on this issue. We make it clear that it
will not be necessary for the Revenue to file a separate Interim Application to
seek a revival of this Petition and the same can be done simply by moving a
Praecipe before this Court.

8 We also make it clear that once the Petition is revived and
restored, the same would have to be decided on its own merits considering
that several other issues are also raised challenging the Notice issued under
Section 148.

9 Rule is accordingly made absolute and the Writ Petition is also
disposed of in terms thereof. However, there shall be no order as to costs.

10 This order will be digitally signed by the Private Secretary/
Personal Assistant of this Court. All concerned will act on production by fax
or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]