IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12108 OF 2025

Adler Bizsol LLP .. Petitioner

Versus

The Assistant Commissioner of Income Tax Central Circle 2(3), Pune and Ors. .. Respondents

***Mr. Sanket S. Bora**, with Vidhi Punmiya and Amiya R. Das, i/b SPCM Legal, Advocates for the Petitioner.*

***Mr. Ashok Kotangale,** with Ms. Smita Thakur, Advocates for the Respondents/Revenue.*

CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.
DATE: SEPTEMBER 22, 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 *interalia* 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 Petitioner's 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 the ratio laid down in *Hexaware Technologies Ltd (supra)*, would not apply to the facts of the present case because the present matter is in relation to central charges and hence that would not be covered. Without prejudice to the aforesaid argument, the learned counsel further submitted that even if the ratio of the judgment in *Hexaware Technologies Ltd (supra)* was to apply, the said judgment has been challenged before the Hon'ble Supreme Court and the Hon'ble Supreme Court is likely to take up the matter shortly. He, therefore, submitted that the Writ Petition be kept pending till the decision in *Hexaware Technologies Ltd (supra)* is rendered by the Hon'ble Supreme Court.

5. We have heard the learned counsel for the parties and also perused the papers and proceedings in the above Writ Petition. In the facts of the present case, there is no dispute that the Notice under Section 148 has been issued by the Jurisdictional Assessing Officer instead of the Faceless Assessing Officer. This, as per the decision in the case of *Hexaware Technologies Ltd (supra),* would be fatal to the Notice. We find no force in the argument of the Revenue that the judgment in *Hexaware Technologies Ltd (supra)* would not apply to the present case because it relates to central charges. This issue is also covered by another Division Bench judgment of this Court in the case of ***Abhin Anilkumar Shah v/s Income-tax Officer, International Taxation [2024] 166 taxmann.com.679 (Bombay).*** In this decision, the Division Bench has clearly opined that even in cases of central charges and international taxation, the Notice would have to be issued under the faceless procedure, namely, the Faceless Assessing Officer. Paragraph 17 of the decision in *Abhin Shah (supra)* sets out the aforesaid proposition and reads thus:-

> *"17. We have thus reached a considered conclusion that the mandatory faceless procedure for issuance of notice under section 148 of the Act falling within the purview of the scheme notified by the Central Government dated 29 March 2022 would not exclude the Central charges and International taxation charges from the application of the faceless*

mechanism as notified under section 144B read with section 151A of the Act."

6. We, therefore, find that the contention of the Revenue that in the present case the Jurisdictional Assessing Officer could have issued Notice under Section 148 is contrary to the law laid down by this Court. Once we find that the facts of the present case are squarely covered not only by the decision of *Hexaware Technologies Ltd (supra)* but also in the case of *Abhin Shah (supra),* we are bound to follow the said decisions. 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. In the event the above Petition stands revived, there will be a stay to the implementation and operation of the Notice issued under Section 148 until further orders. It is needless to clarify that if the Hon'ble Supreme Court dismisses the SLP challenging the decision in

Hexaware Technologies Ltd (supra), there would be no question of any revival.

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.

[AMIT S. JAMSANDEKAR, J.] **[B. P. COLABAWALLA, J.]**

Darshan Patil

Signed by: Darshan Patil
Designation: PA To Honourable Judge
Date: 29/09/2025 17:13:54