IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 12229 OF 2025

IN

WRIT PETITION NO. 1428 OF 2023

Verjinia Foods Limited .. Petitioner

Versus

The Income Tax Officer, Ward-1(1), Kalyan .. Respondents

Mr. Devendra H. Jain a/w Shashank Ajay Mehta a/w Saukhya Lakade i/b. Radha Halbe, *Advocates for the Petitioner.*

Mr. Akhileshwar Sharma, *Advocate for the Respondents.*

CORAM: B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.

DATE: OCTOBER 6, 2025

P. C.

1. The Petitioner (who is also the Applicant in the captioned Interim Application) has filed the above Interim Application seeking further directions in Writ Petition No. 1428 of 2023, which was disposed on 9th May 2024.

2. The Petitioner, states that it had filed Writ Petition bearing No. 1428 of 2023 before this Court, *inter-alia,* challenging the re-assessment

proceedings in respect of **Assessment Year 2015-16** initiated pursuant to the Notice issued under Section 148 on 5th April 2022. This Court vide it's Order dated 9th May 2024 had disposed off the said Petition by allowing the Writ Petition of the Petitioner.

3. The Petitioner, in Exhibit-B of the Interim Application, has brought to our Notice that it had duly intimated the Assessing Officer about the above Order passed by this Court [in the Writ Petition No. 1428 of 2023] and requested him to drop the re-assessment proceedings. It is contended by the Petitioner that despite intimating the Assessing Officer about the order of this Court, the re-assessment proceedings were not closed/dropped but were kept open.

4. The Counsel of the Applicant/Petitioner further submitted that the Assessing Officer continued to issue notices and ultimately passed the order of the re-assessment on 3rd March 2025 under Section 147 of the Income-tax Act, 1961, making an addition of Rs. 1,18,80,000/-. Consequently, a Notice under Section 156 and notices proposing to levy penalty under Sections 271F, 271(1)(b) and 271(1)(c) were also issued.

5. The Assessing Officer in the said order of re-assessment dated 3rd March 2025 has stated that the re-assessment proceedings were continued because the department had filed Special Leave Petition (CIVIL) Diary No.(s). 56892/2024 against the order dated 9th May 2024 passed by this Court [in the Writ Petition No. 1428 of 2023]. This SLP was disposed of by the Hon'ble Apex Court, *inter alia,* holding that the judgment of Hon'ble Supreme Court dated 3rd October 2024 in the case of "***Union of India & Ors. Vs. Rajeev Bansal"*** (Civil Appeal No.8629/2024) was squarely applicable to the Petitioner's case.

6. The Petitioner then moved a rectification application (placed at Exhibit F1 of the Interim Application) and responded to the notices proposing to impose penalty. The Petitioner primarily objected that since this Court [in the Writ Petition No. 1428 of 2023] had quashed the re-assessment proceedings, the Assessing Officer was thus barred from continuing the same and that any consequential order of re-assessment and notices proposing to impose penalty are bad in law.

7. Before us, the learned Counsel for the Petitioner has made the following two fold submissions :

(a) Firstly, it is submitted that the Hon'ble Supreme Court in it's order dated 6th January 2025 [in SLP(Civil) Diary No. 54301/2024 (part of group matter in SLP(Civil) Diary No. 56892/2024)] had held that the case of the Petitioner was squarely covered by the decision in the case of ***'Union of India Vs. Rajeev Bansal [2024] 469 ITR 46 (SC)'*** and that the case of the Petitioner would be governed by the reasoning discussed in the said decision. It is submitted that the Hon'ble Supreme Court in para 19(f) of the said decision in the case of ***Rajeev Bansal (supra)*** has recorded the submission of the Ld. Additional Solicitor General of India, that in respect of Assessment Year 2015-16, all the notices issued on or after 1st April 2021 would have to be dropped as they would not fall for completion during the period prescribed under the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 [for short "**TOLA**"]. Once the Ld. Additional Solicitor General of India has already conceded to drop the re-assessment proceedings in respect of the A.Y.2015-16 where Notices under Section 148 are issued on or after 1st April 2021, the Assessing Officer ought to have dropped the re-assessment proceedings and certainly could not proceed to pass the re-assessment order.

(b) Secondly, it is contended that even otherwise, the Writ Petition filed by the Petitioner, being Writ Petition No. 1428 of 2023, was also disposed on the ground that the case of the Petitioner was governed by the decision of this Court in ***Hexaware Technologies Limited v. ACIT (supra)*** and that the Jurisdictional Assessing Officer (Respondent No. 1) could not issue any Notice under Section 148 in light of the provisions of Section 151A. This aspect was not the subject matter of dispute before the Hon'ble Supreme Court in ***Union of India Vs. Rajeev Bandal (supra).*** Accordingly, even in the light of the decision of this Court in the case of ***Hexaware Technologies Limited v. ACIT (supra)***, the re-assessment proceedings could not continue.

8. The learned Counsel for the Revenue does not dispute that the Hon'ble Apex Court in ***Rajeev Bansal's case*** [paragraph 19(f)] records the submissions made by the Ld. Additional Solicitor General of India about the Revenue conceding that for the A.Y. 2015-16, all notices issued on or after 1st

April 2021 will have to be dropped as they would not fall for completion during the period prescribed under TOLA. However, it is his submission that in the operative part of the order in ***Rajeev Bansal's*** **case** [paragraph 114 *Conclusion*], the Hon'ble Apex Court has not made any distinction in respect of reassessment notices issued for the A.Y.2015-16 and the assessment notices issued for any other assessment year. He, therefore, contends that as per his reading of the said order in ***Rajeev Bansal (supra)*** , it appears that though a concession has been made by the Ld. ASG in respect of the A.Y.2015-16, the said concession does not appear to have been judicially recognized by the Hon'ble Apex Court. He, however, fairly admits that the reassessment proceedings could not have been proceeded further as the order dated 9th May 2024 of this Court in the Writ Petition No. 1428 of 2023 has quashed and set aside the Notice dated 5th April 2022 issued under Section 148 of the Act on two separate grounds one that it was time barred and the other being on the basis of the judgment of this Court in ***Hexaware Technologies Limited V. ACIT (supra).*** The judgment of this Court in ***Hexaware Technologies Limited (supra)*** is not yet set aside or modified by the Hon'ble Apex Court.

9. In rejoinder, the learned Counsel for the Applicant/Petitioner submitted that the issue of concession made by the Ld. ASG in respect of the

A.Y.2015-16 in ***Rajeev Bansal's case***, came up for consideration before different High Courts where it is held that Notices issued under Section 148 after 1st April 2021 for A.Y.2015-16 would be bad in law. In this regard he relied upon the following judgments :

(a) ITO vs. Venkatlal Iyyappa Rajana [2025] 178 taxmann.com 410 (Karnataka)[05-08-2025]

(b) Pratishtha Garg Vs. Assistant Commissioner of Income-tax Central [2025] 171 taxmann.com 264 (Delhi) [19-12-2024]

(c) Lalit Gulati vs. Assistant Commissioner of Income-tax [2025] 174 taxmann.com 273 (Delhi) [02-05-2025]

10. We have heard the learned Counsel appearing for the Petitioner and the Respondents and have also perused the papers and proceedings. The Assessment Year involved in Writ Petition bearing No. 1428 of 2023 is A.Y.2015-16. The said Writ Petition [filed by the Assessee-Petitioner] was allowed on 9th May 2024 observing the following :-

> *"1. Counsel for Petitioners state that the issue in these petitions will be covered by the recent judgment of this Court in* ***Godrej Industries Ltd. vs. The Assistant Commissioner of Income Tax, Circle 14(1)(2), Mumbai and ors.****, so also by the judgment of this Court in* ***Hexaware Technologies Limited V. Assistant Commissioner of Income Tax Circle 15(1)(2) Mumbai and Ors****. Counsel for Respondents concurs.*

2. Therefore, the notice dated 6th April 2024 issued under Section 148 of the Income Tax Act, 1961 is quashed and set aside. In case any re-assessment order is passed, the same also will stand quashed. So also, consequential demand notices or penalty notices will also stand quashed and set aside."

11. Meanwhile, the Revenue in such similar matters had filed Special Leave Petitions before the Hon'ble Supreme Court challenging the orders passed by several High Courts on several jurisdictional issues in relation to the re-assessment proceedings for A.Y.2013-14 to A.Y. 2017-18. The Hon'ble Supreme Court grouped together all such SLPs and the lead matter being **UOI vs. Rajeev Bansal [Civil Appeal Nos. 8629, 8631 of 2024 & others].**

12. During the course of hearing in ***Rajeev Bansal (supra),*** the Ld. Additional Solicitor General of India made various submissions. What is important for our propose is paragraph 19(f) where the Hon'ble Supreme Court recorded the submission of the Ld. Additional Solicitor General of India in respect of A.Y. 2015-16. It reads thus :-

"19. Mr. N. Venkataraman, learned Additional Solicitor General of India, made the following submissions on behalf of the Revenue :

a. …

b. …

…

f. The Revenue concedes that for the assessment year 2015-16, all notices issued on or before 1 April 2021 will have to be dropped as they will not fall for completion during the period prescribed under TOLA ;

g. ….

…. "(emphasis supplied)

13. Meanwhile, despite this Court quashing the re-assessment proceedings in Writ Petition bearing No. 1428 of 2023, the Assessing Officer continued with the re-assessment on the premises that the order passed by the Hon'ble Apex Court in the case of ***Rajeev Bansal (supra),*** would be applicable in the facts of the case of the Petitioner overlooking the crucial fact that it pertained to A.Y. 2015-16 for which a concession was made by the Ld. ASG. The Assessing Officer also completely overlooked the fact that in view of the decision of this court in ***Hexaware Technologies Limited v. ACIT*** [**Writ Petition No. 1778 of 2023 dated 3rd May 2024**], he could not have proceeded further.

14. Both the parties agree that in view of the decision of this Court in ***Hexaware (supra)***, the Assessment Order dated 3rd March 2025 is bad in law. This leave us with a limited question as to whether, in facts of the

present case, the re-assessment order passed on 3rd March 2025 under Section 147 of the Income tax Act 1961 is bad in law even as per the Order of the Hon'ble Apex Court in ***Rajeev Bansal (supra).***

15. As mentioned earlier, the Assessment Year involved is A.Y. 2015-16 and the Notice under Section 148 is undisputedly issued on 5th April 2022, which is after 1st April 2021. Therefore, the said re-assessment proceedings ought to have been dropped in view of the concession made by the Ld. Additional Solicitor General of India before the Hon'ble Supreme Court as recorded in paragraph 19(f) of the decision rendered in ***Rajeev Bansal (supra)*** . This has clearly been missed by the Assessing Officer in the Assessment Order dated 3rd March 2025.

16. The learned Counsel for the Petitioner has also brought to our attention the decision of the Hon'ble Supreme Court in the case of **Deepak Steel and Power Ltd. Vs. CBDT [2025] 476 ITR 369 (SC) [02-04-2025]**, wherein at paragraph 4 and 5 it was held as under :-

> *"4. The learned counsel appearing for the revenue with his usual fairness invited the attention of this Court to a three judge bench decision of this Court in Union of India v. Rajeev Bansal 2024 SCC OnLIne SC 2693/[2024] 167 taxmann. com 70/301 Taxman 238/469 ITR 46 (SC), more particularly, paragraph 19(f) which reads thus :-*

"19. (f) The Revenue concedes that for the assessment year 2015-2016, all notices issued on or after April 1, 2021 will have to be dropped as they will not fall for completion during the period prescribed under the Taxation and other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020."

5. As the Revenue made a concession in the aforesaid decision that is for the assessment year 2015-2016, all notices issued on or after 1st April, 2021 will have to be dropped as they would not fall for completion during the period prescribed under the taxation and other laws (Relaxation and Amendment of certain Provisions Act, 2020). Nothing further is required to be adjudicated in this matter as the notices so far as the present litigation is concerned is dated 25.6.2021."

Similarly, in **ITO v. R.K. Build Creations (P) Ltd. [Special Leave Petition (Civil) Dairy No. 59625 of 2024]**, the Hon'ble Supreme Court dismissed the Special Leave Petition arising out of a decision rendered by the Hon'ble Rajastan High Court in DBC WP No. 14414/2022/R.K. Buildcreations (P) Ltd. v. ITO [2024] 462 ITR 478 (Rajasthan). It would be equally relevant to refer to the said order passed by the Hon'ble Supreme Court, which is reproduced below :

"Delay condoned,
Having regard to the concession made by the petitioner Department in the case of Union of India v. Rajeev Bansal, Civil Appeal No. 8629 of 2024 on 03.10.2024 (2024 SCC ONLINE 754), this Special Leave Petition would not survive for further consideration.
Hence, the Special Leave Petition is dismissed.
Pending application (s), if any, shall stand disposed of."

Thus, the Revenue has itself time and again reiterated before the Hon'ble Supreme Court in the above cases that the Notice for reassessment issued under Section 148 on or after 1st April 2021 [in respect of A.Y. 2015-16] ought to be dropped as conceded in para 19(f) of the decision in the case of ***UOI v. Rajeev Bansal (supra)***.

17. Accordingly, we hold that the Notice under Section 148 for A.Y. 2015-16 issued on 5th April 2022 was barred by limitation and ought to have been dropped pursuant to the decision of Hon'ble Supreme Court in the case of ***UOI v. Rajeev Bansal (supra)***. We also agree with the submission of both the parties, that the Notice issued on 5th April 2022 under Section 148 is also bad in law in view of the decision of this Court in ***Hexaware (supra)***.

18. Since the Notice issued on 5th April 2022[wrongly mentioned as 6th April 2024] under Section 148 was already quashed by order dated 9th May 2024 passed in the above Writ Petition, the consequent order of reassessment dated 3rd March 2025 passed under Section 147 read with Section 144B of the Act, the Notice of Demand dated 3rd March 2025 issued under Section 156 and all the notices proposing to impose penalty under

Section 271F, Section 271(1)(b) and Section 271(1)(c) and any order/notice, if any, emanating therefrom are hereby quashed and set aside.

19. The Interim Application is accordingly disposed off. There shall be no order as to costs.

20. 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.]**