IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.4649 OF 2025

Manoj kumar Babulal Bagla .. Petitioner

Versus

The Income Tax Officer-23(2)(6), Mumbai & Ors. .. Respondents

Mr. Mandar Vaidya, Advocate for the Petitioner.

Ms. Mamta Omle, Advocate for the Respondents.

CORAM : B. P. COLABAWALLA &
AMIT S. JAMSANDEKAR, JJ.
DATE : DECEMBER 15, 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 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 shortly. The learned counsel for the Revenue 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. Learned counsel appearing on behalf of the Petitioner also brought to our notice that the impugned notice issued under Section 148 and the assessment order passed thereon have been challenged by the Petitioner by preferring an Appeal before the CIT (Appeals). In light of this order, learned counsel appearing on behalf of the Petitioner, on instructions, undertakes to withdraw the said Appeal within a period of 3 weeks from today. The said undertaking is accepted. If for any reason, the present order is challenged by the Revenue and is set aside, or if the issue in *Hexaware Technologies Ltd (supra)* is decided against the Assessee and which is pending in the Hon'ble Supreme Court, then, the Appeal filed by the Petitioner before CIT (Appeals) will automatically stand revived and the same will be prosecuted on its own merits and in accordance with law.

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

9. 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.]**