2025:BHC-NAG:13176-DB

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 7099 OF 2023

(Shri Madhukar s/o Govinda Gourkhede Vs. Income Tax Officer, Nagpur & Anr.)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's Orders.	Court's or Judge's orders.

Mr. Rohan Chandurkar, Counsel for the petitioner.
Mr. B.N. Mohata, Counsel for the respondents.

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CORAM : ANIL L. PANSARE AND
RAJ D. WAKODE, JJ.
NOVEMBER 28, 2025

CIVIL APPLICATION NO. 2402/2024

For the reasons set out in the application, the same is allowed. The amendment shall be carried out forthwith.

2] The application is disposed of.

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3] Heard.

4] Rule. Rule made returnable forthwith.

5] Mr. B.N. Mohata, learned Counsel, waives service of notice on behalf of the respondents.

6] The petition challenges, *inter alia*, validity of notices issued under Section 148 of the Income-tax Act, 1961, on various grounds. One such ground is that the notices have been issued by Jurisdictional Assessing Officer, whereas, statutory law mandates that such notices must be issued by a Faceless Assessing Officer. The petitioner asserts that this constitutes a fundamental defect rendering the impugned notice liable to be quashed. The petitioner further contends that this issue is directly covered by decision of this Court in the case of *Hexaware Technologies Ltd. Vs. Assistant Commissioner of Income-tax, Circle 15(1)(2) [(2024) 162 taxmann.com 225 (Bombay)]*, which has held that notices issued by the Jurisdictional Assessing Officer, in such circumstances, are invalid, where the law prescribes issuance by a Faceless Assessing Officer.

7] As against, the learned Counsel for respondents – revenue submits that, although, the aforementioned decision is relevant, it is presently subjected to challenge before the Hon'ble Supreme Court. The learned Counsel further states that no stay has been granted in respect of the judgment in the aforementioned decision, and the matter is likely to be considered by the Supreme Court shortly.

8] Having regard to these facts, we do not find it appropriate to keep the matter pending. Since the issue is conclusively settled by the aforementioned decision, we are bound to adhere to it.

9] Accordingly, we set aside the impugned notice issued under Section 148 and the proceedings or orders emanating therefrom.

10] We grant liberty to the respondents - revenue to revive the petition, should the decision of the Supreme Court overturn the ruling in the aforementioned case. It is clarified that the respondent - revenue need not file separate application for revival; instead, a simple pursis may be filed before this Court to initiate the revival process. Furthermore, if the petition is revived, the operation and enforcement of the impugned notice under Section 148 shall remain stayed until further orders. It is further clarified that upon revival, the petition shall be decided on its own merits, considering that multiple other grounds, challenging the validity of the notices under Section 148, have been raised. It is also clarified that if the Supreme Court dismisses the Special Leave Petition challenging the decision in the aforementioned case, there shall be no question of revival.

11] In view of the foregoing, the Rule is made absolute, and the petition is disposed of accordingly. There shall be no order as to costs.

(JUDGE) **(JUDGE)**

Sumit