IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.5557/2025

Raziya Bano Mohd Yaseen Kachchhi, LRs of Roshan Waghadia .Vs. Additional/Joint Commissioner, Income Tax, Range – 4 Nagpur and Ors.

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

Mr. R. D. Heda, Advocate for petitioner.
Mr. A. Parchure with Mr. B. N. Mohta, Advocates for respondent Nos. 1 to 3.

CORAM : ANIL L. PANSARE AND RAJ D. WAKODE, JJ.
DATE : DECEMBER 5, 2025.

Heard. Rule. Rule made returnable forthwith. Mr.Anand Parchure waives service of notice on behalf of respondents.

2) The Writ Petition challenges, inter alia, the validity of the Notice issued under Section 148 of the Income Tax Act, 1961 on various grounds. One such ground contends that the Notice has been issued by the Jurisdictional Assessing Officer, whereas the 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.

3) As against, learned counsel for respondents submitted that although the aforementioned decision is relevant, it is presently subject to challenge before the Hon'ble Supreme Court. The learned counsel further stated 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.

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

5) Accordingly, we set aside the impugned Notice issued under Section 148 and all proceedings or orders emanating therefrom.

6) We grant liberty to the respondents to revive this Writ Petition, if the decision of the Supreme Court overturns the ruling in the aforementioned case. It is clarified that the respondents need not file a 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 Petitions shall be decided on its own merits, considering that multiple other grounds challenging the validity of the Notice 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 cases, there shall be no question of revival.

7) In view of the foregoing, the Rule is made absolute and the Writ Petition is disposed of accordingly. There shall be no order as to costs.

(JUDGE) **(JUDGE)**

Kahale