IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2025

CORAM

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SUNDER MOHAN

WP No.35385 of 2024
and WMP Nos.38272 and 38276 of 2024

Dadha Pharma LLP
Rep. by its Designated Partner
Mohanchand Pradeep Dadha : Petitioner

Vs

The Deputy Commissioner of Income Tax
Central Circle, Central Cir-1(4)
Chennai 3rd Floor
Investigation Building
No.46 (old no.108)
Mahatma Gandhi Road
Chennai : Respondent

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records in the impugned show cause notice dated 29.8.2024 bearing DIN and Notice No.ITBA/AST/F/148A(SCN)/2024-25/1068107074(1) for the AY 2018-19 issued under clause (b) of section 148A of the Act and consequential order dated 31.8.2024 with DIN and Notice No.ITBA/AST/F/148A/2024-25/1068220048(1) for the AY 2018-19 passed by the Respondent under clause (d) of section 148A of the Act and the consequential notice dated 31.8.2024 bearing DIN and Notice No. ITBA/AST/F/148-1/2024-25/1068220221(1) for the AY 2018-19 issued by the respondent under Section 148 of the Act quash the same and consequently direct the respondent to treat that there is no income chargeable to tax of the petitioner that has escaped assessment under Section 147 of the Act.

For Petitioner	:	Mr.V.S.Jayakumar, Senior Counsel, for Mr.Vinod Kumar
For Respondent	:	Mr.A.P.Srinivas

ORDER

(Order of the Court was made
by the Hon'ble Chief Justice)

This petition got listed in view of a difference of opinion between two learned Single Judges.

2. Learned Single Judge in order dated 20.12.2024 in WP Nos.25223 of 2024 held that it does not matter if the Jurisdictional Assessing Officer

(JAO) issues the notice and it is not mandatory that it should be issued by the Faceless Assessment Officer (FAO). Another learned Single Judge in order dated 21.04.2025 in WP No.22402 of 2024 and batch cases, followed what was held by the Bombay High Court in ***Hexaware Technologies Ltd vs. Assistant Commissioner of Income Tax***[1]; and opined that it was mandatory for the FAO to issue notice and issuance of notice by JAO would make the notice invalid.

3. Learned Single Judge thereafter directed the matter to be placed before the Chief Justice for constituting a Division Bench to consider the divergent views. It is, therefore, this matter was listed before us today.

4. Learned Senior Counsel, Mr.Jayakumar, submits that the law as laid in ***BMC Software India (P) Ltd vs. Deputy Commissioner of Income Tax***[2] will apply. This judgment followed *Hexaware Technologies Ltd (supra) and* ***Kairos Properties (P) Ltd vs. Assistant CIT***[3].

1 ***[2024] 162 taxmann.com 225 (Bombay)***

2 ***[2024] 167 taxmann.com 39 (Bombay)***

3 ***[2024] 165 taxmann.com 760 (Bombay)***

5. Mr.Srinivas states that Special Leave Petitions are pending against the judgment in *BMC Software India (P) Ltd (supra), Hexaware Technologies Ltd (supra) as also Kairos Properties (P) Ltd (supra)* and that the petitions are expected to be taken up after the Supreme Court reopens.

6. We follow the law as laid down in *Hexaware Technologies Ltd (supra),* the said judgment was authored by one of us (Chief Justice), that it is mandatory for the FAO to issue the concerned notices and issuance thereof by the JAO would make the notice invalid.

7. Admittedly, Mr.Srinivas, in fairness, states that there is no stay. Therefore, the law as laid down by *Hexaware Technologies Ltd (supra)* applies.

8. It is clarified that if the Apex Court reverses the judgment of *Hexaware Technologies Ltd (supra)*, parties will be governed by the decision of the Apex Court.

9. Keeping open all rights and contentions of parties, including liberty to apply to this Court, in case the Revenue succeeds before the Apex Court, for revival of this petition, the notice issued in this petition is quashed and set aside.

10. In this petition, apart from the issue of notice issued by JAO instead of FAO, all or many of the issues which were considered in *Hexaware Technologies Ltd (supra)* are involved.

11. To the extent the issues raised in *Hexaware Technologies Ltd (supra)* are not covered, those are kept open to be raised at the appropriate stage.

12. With the liberty as noted above, this petition stand disposed of holding in favour of assessee. There will be no order as to costs. Consequently, the interim applications also stand disposed of.

(K.R.SHRIRAM, CJ.) (SUNDER MOHAN, J.)
24.06.2025

Index : Yes/No
Neutral Citation : Yes/No
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To

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THE HON'BLE CHIEF JUSTICE
AND
SUNDER MOHAN, J.

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