$~84 ,85, 87, 88, 89 & 90

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 15741/2025 CM APPL. 64418/2025 CM APPL. 64419/2025 CM APPL. 64420/2025

LAKSHAY CREATION .....Petitioner

Through: Mr. Kumail Abbas, Mr. Deepanshu Mehta, Ms Sahaa Irfan and Ms Riya Jain, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CIRCLE 60 1 DELHI .....Respondent

Through:

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\+ W.P.(C) 15747/2025 CM APPL. 64453/2025 CM APPL. 64454/2025 CM APPL. 64455/2025

HC GUPTA EDUCATIONAL SOCIETY .....Petitioner

Through: Mr. Kumail Abbas, Mr. Deepanshu Mehta, Ms Sahaa Irfan and Ms Riya Jain, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 2 .....Respondent

Through: Mr. Anurag Ojha, SSC with Ms. Hemlata Rawat, JSC and Mr. V. K. Saksena, JSC.

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\+ W.P.(C) 15769/2025 CM APPL. 64629/2025 CM APPL. 64630/2025 CM APPL. 64631/2025

HC GUPTA EDUCATIONAL SOCIETY .....Petitioner

Through: Mr. Kumail Abbas, Mr. Deepanshu Mehta, Ms Sahaa Irfan and Ms Riya Jain, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 2 .....Respondent

Through: Mr. Anurag Ojha, SSC with Ms. Hemlata Rawat, JSC and Mr. V. K. Saksena, JSC.

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\+ W.P.(C) 15770/2025 CM APPL. 64634/2025 CM APPL. 64635/2025 CM APPL. 64636/2025

HC GUPTA EDUCATION SOCIETY .....Petitioner

Through: Mr. Kumail Abbas, Mr. Deepanshu Mehta, Ms Sahaa Irfan and Ms Riya Jain, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 2 .....Respondent

Through: Mr. Anurag Ojha, SSC with Ms. Hemlata Rawat, JSC and Mr. V. K. Saksena, JSC.

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\+ W.P.(C) 15771/2025 CM APPL. 64639/2025 CM APPL. 64640/2025 CM APPL. 64641/2025

LANDMARK TRADERS PRIVATE LIMITED .....Petitioner

Through: Mr. Kumail Abbas, Mr. Deepanshu Mehta, Ms Sahaa Irfan and Ms Riya Jain, Advs.

versus

DEPUTY COMMISSIONER OF INCOME TAX CIRCLE 13 (1) .....Respondent

Through: Mr. Siddhartha Sinhg, Se. Standing Counsel.

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\+ W.P.(C) 15772/2025 CM APPL. 64642/2025 CM APPL. 64643/2025 CM APPL. 64644/2025

HC GUPTA EDUCATIONAL SOCIETY .....Petitioner

Through: Mr. Kumail Abbas, Mr. Deepanshu Mehta, Ms Sahaa Irfan and Ms Riya Jain, Advs.

versus

ASSISTANT COMMISSIONER OF INCOME TAX CENTRAL CIRCLE 2 .....Respondent

Through: Mr. Anurag Ojha, SSC with Ms. Hemlata Rawat, JSC and Mr. V. K. Saksena, JSC.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MR. JUSTICE VINOD KUMAR

O R D E R

% 14.10.2025

1. These petitions involve identical issue as to whether it is the jurisdictional Assessing Officer or Faceless Assessing Officer, who shall have the jurisdiction to initiate the reassessment proceedings. Insofar as this Court is concerned, the issue stands covered by the judgment of the Coordinate Bench of this court in ***TKS Builders Pvt. Ltd. vs Income Tax Officer, 2024 SCC OnLine Del 7508.*** Suffice to state that the judgment in ***TKS Builders (supra)*** is pending consideration before the Supreme Court of India, but no stay of the judgment has been granted. The judgment is binding on this court. On an identical issue in ***M/s Empire Fastners v. The Assistant Commissioner of Income Tax & Anr., Neutral Citation 2025:DHC:8485-DB; Yukti Export v. Income Tax Officer Ward 60(7)***

Delhi, Neutral Citation 2025:DHC:8710-DB and connected matters, this court has dismissed the petitions.

2. In the batch of petitions being ***M/s Empire Fastners (supra),*** this Court has stated as under :

> *2. "The submission of Mr. Atul Yeshwant Chitale, learned Senior Counsel for the petitioner is primarily that the impugned notice issued on 08.03.2025 under Section 148A(1) of the Assessment Year ('AY') 2019-20 was issued by the Jurisdictional Assessing Officer and not by the Faceless Assessing Officer and as such, the proceedings culminating in the issuance of notice under Section 148A gets vitiated. He also states that the issue is covered by the judgment of the Bombay High Court in the case of* ***Hexaware Technologies Ltd. vs. Assistant Commissioner of Income Tax, 2024 SCC OnLine Bom (1249)*** *and recently in the case of* ***Prakash Pandurang Patil vs. Income Tax Officer, Ward 5, Panvel & Ors in Writ Petition No. 10749/2024****, decided by the Bombay High Court in favour of the assessee, the SLP against which has been dismissed by the Supreme Court in* ***Income Tax Officer Ward 5 Panvel & Ors. vs. Prakash Pandurang Patil, Special Leave Petition (Civil) Diary No. 39689/2025****, on 18.08.2025. According to him, the issue as to whether it is the Faceless Assessing Officer which would have the requisite jurisdiction stands settled by the Supreme Court. He states that the dismissal of the SLP being on merits, the judgment of the Bombay High Court, which has relied upon in* ***Hexaware Technologies Ltd. (Supra)****, has been upheld.*
>
> *3. Mr. Abhishek Maratha submits that the contentions of Mr. Chitale are unmerited inasmuch as this Court, while dismissing a petition seeking similar relief, has settled the law in* ***TKS Builders Pvt. Ltd. vs. Income Tax Officer, 2024 SCC OnLine Del 7508****, which, though under challenge before the Supreme Court, has not been stayed. Hence, it would be binding on this Court. As such, insofar as the jurisdiction of Delhi is concerned, both the officers i.e., the Jurisdictional Assessment Officer and the Faceless Assessment Officer, have concurrent jurisdiction to initiate proceedings for re-assessment. To buttress this argument, he has relied upon the judgment in* ***Khoday Distilleries Limited (now known as Khoday India Limited) and Others vs. Sri Mahadeshwara Sahakara Sakkare Karkhane Limited, Kollegal (under liquidation) represented by the Liquidator, (2019) 4 SCC 376****, wherein paragraph 26.2 states as under:-*
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>> *"26.2. We reiterate the conclusions relevant for these cases as under: (Kunhayammed case, SCC p. 384)*
>> *"(iv) An order refusing special leave to appeal may be a non-speaking order or a speaking one. In either case it does not attract the doctrine of merger. An*

order refusing special leave to appeal does not stand substituted in place of the order under challenge. All that it means is that the Court was not inclined to exercise its discretion so as to allow the appeal being filed.

(v) If the order refusing leave to appeal is a speaking order i.e. gives reasons for refusing the grant of leave, then the order has two implications. Firstly, the statement of law contained in the order is a declaration of law by the Supreme Court within the meaning of Article 141 of the Constitution. Secondly, other than the declaration of law, whatever is stated in the order are the findings recorded by the Supreme Court which would bind the parties thereto and also the court, tribunal or authority in any proceedings subsequent thereto by way of judicial discipline, the Supreme Court being the Apex Court of the country. But, this does not amount to saying that the order of the court, tribunal or authority below has stood merged in the order of the Supreme Court rejecting the special leave petition or that the order of the Supreme Court is the only order binding as res judicata in subsequent proceedings between the parties.

(vi) Once leave to appeal has been granted and appellate jurisdiction of the Supreme Court has been invoked the order passed in appeal would attract the doctrine of merger; the order may be of reversal, modification or merely affirmation.

(vii) On an appeal having been preferred or a petition seeking leave to appeal having been converted into an appeal before the Supreme Court the jurisdiction of the High Court to entertain a review petition is lost thereafter as provided by sub-rule (1) of Order 47 Rule 1 CPC."

*4. He states that the order of the Supreme Court in **Prakash Pandurang Patil (Supra)** does not give any reasons and as such is a dismissal in limine. Further, his contention is that this Court in the case of **PC Jeweller Limited vs. Assistant Commissioner Of Income Tax & Anr., W.P.(C) 13229/2024, decided on 23.01.2025,** has dismissed a petition with similar challenges by relying upon **TKS Builders Pvt. Ltd.***

*5. Having heard the learned counsel for the parties, we are of the view that the submission of Mr. Chitale cannot be accepted for the reason that a co-ordinate Bench of this Court in the case of **TKS Builders Pvt.***

__Ltd. (Supra)__ has settled the issue insofar as the jurisdiction of Delhi is concerned, by stating that both the Jurisdictional Assessing Officer and the Faceless Assessing Officer have concurrent jurisdiction.

6. Suffice it to state, as referred to by Mr. Maratha, a co-ordinate Bench of this Court in the case of __PC Jeweller (Supra)__, has also dismissed a writ petition seeking similar relief by following the ratio in __TKS Builders Pvt. Ltd. (Supra)__. Though the judgment in __PC Jeweller (Supra)__, has been taken in appeal before the Supreme Court, we note that the Revenue has been permitted to continue the proceedings on the caveat that any order, if passed adverse to the petitioner, shall not be given effect.

7. While it is true that the appeal against __TKS Builders Pvt. Ltd. (Supra)__ is also pending adjudication before the Supreme Court, we note that the Supreme Court has not stayed the operation of the judgment. The judgment in __Hexaware Technologies Ltd. (Supra)__ is also pending consideration before the Supreme Court.

8. That apart, even in the cases of __M/s Mala Petrochemicals and Polymers vs. the Income Tax Officer & Ors. WP(C) 12011/2025, decided on 19.08.2025, Mehak Jagga vs. ITO (W.P.(C) 13149/2025, decided on 28.08.2025__ and __All India Kataria Education Society vs. DCIT W.P.(C) 14225/2025, decided on 15.09.2025__ we have dismissed similar petitions by relying upon __TKS Builders Pvt. Ltd. (Supra)__.

9. In view of the above, the captioned petitions are dismissed. The pending applications, having become infructuous, are also dismissed."

3. For parity of reasons, these petitions are dismissed.

4. The pending applications are dismissed as infructuous.

V. KAMESWAR RAO, J

VINOD KUMAR, J

OCTOBER 14, 2025

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