



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

921 WRIT PETITION NO. 6165 OF 2025

Swapnil Satyanarayan Rathi

VERSUS

The Principal Commissioner Income Tax And Another

- ...
- Adv. Raviraj R. Chandak for the Petitioner
 - **Dr. Kalpalata Patil-Bharaswadkar** for all the Respondents
- ...

CORAM : ARUN R. PEDNEKER AND
VAISHALI PATIL-JADHAV, JJ.

DATE : 14.01.2026

PER COURT:

1. Liberty to file affidavit-in-reply is granted.
2. By this petition, the petitioner challenges the impugned notice under Section 148 of the Income Tax Act, 1961, issued by the Jurisdictional Assessing Officer (for short "JAO").
3. This Court has consistently relied upon the decision of the Division Bench 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), and has held that the JAO has no jurisdiction to issue notice under Section 148 of the Income Tax Act, 1961, after the faceless reassessment scheme being promulgated on
(This order is modified as per Court's Speaking to the Minutes Order dated 23.01.2026)

29.03.2022. Relying upon the judgment in Hexaware Technologies Ltd. (Supra), this Court has allowed writ petitions in a large number of cases. Accordingly, we also propose to pass a similar order.

4. The learned counsel appearing for respondents - Income Tax Department has relied upon the decision of the Delhi High Court in the case of T.K.S. Builders Pvt. Ltd., GDR Finance and Leasing Private Limited Vs. Income Tax Officer dated 28.10.2024, in WP(C) No. 1968/2023 and other connected matters, and submits that the Delhi High Court has held that both the JAO as well as Faceless Assessing Officer (for short “FAO”) would have concurrent jurisdiction to issue notice under Section 148.

5. However, considering that this Court, by relying upon its own judgment in the case of Hexaware Technologies Ltd. (Supra) has consistently held that notice under Section 148 of Income Tax Act could only be issued by FAO and not by JAO after 29.03.2022, we proceed to pass the following order.

6. We, accordingly, set aside the impugned notice issued under Section 148 of the Income Tax Act and all other proceedings/orders emanating therefrom.

(This order is modified as per Court's Speaking to the Minutes Order dated 23.01.2026)

7. We, however, grant liberty to the Revenue to revive this writ petition in the event the decision in Hexaware Technologies Ltd. (Supra) is set aside by the Hon'ble Supreme Court on this issue. We make it clear that it will not be necessary for the Revenue to file a separate interim application to seek revival of this petition, and the same can be done by simply moving a praecipe before this Court. In the event the above petition stands revived, there will be a stay to the implementation and operation of the impugned notice issued under Section 148 until further orders. It is needless to clarify that if the Hon'ble Supreme Court dismisses the Special Leave Petition challenging the decision in Hexaware Technologies Ltd. (Supra), there would be no question of any revival.

8. We also make it clear that once the petition is revived and restored, the same would have to be decided on its own merits, considering that several other issues are also raised challenging the notice issued under Section 148.

9. The Writ petition is disposed of in the above terms.

[VAISHALI PATIL-JADHAV, J.]

[ARUN R. PEDNEKER, J.]

(This order is modified as per Court's Speaking to the Minutes Order dated 23.01.2026)