



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L.) NO. 18296 OF 2024

Royal Bitumen Private Limited, Mumbai ..Petitioner
Vs.
Assistant Commissioner of Income-Tax
Circle 8(1)(1) Mumbai & Ors. ...Respondents

Dr. K. Shivraman, Senior Advocate i/b. Mr. Shashi Bekal for Petitioner.
Mr. P. A. Narayanan for Respondents

CORAM: G. S. KULKARNI &
SOMASEKHAR SUNDARESAN, JJ.
DATE: 08 JULY, 2024.

Oral Judgment (Per G. S. Kulkarni, J.):-

1. Rule. Rule made returnable forthwith. By consent of the parties, heard finally.
2. This writ petition under Article 226 of the Constitution of India, in the context of a notice issued to the petitioner under Section 148A(b) of the Income Tax Act, 1961 (for short, "the Act") and actions taken subsequent thereto, has prayed for the following reliefs:-

"(a) That this Hon'ble Court may be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate Writ, order or direction, calling for the records of the Petitioner's case and after going into the legality and propriety thereof, to quash and set aside (i) Notice under section 148 of the Act dated April 12, 2024 (Ex-A); (ii) Order dated April 12, 2024,

passed under section 148A (d) of the Act (Ex-B);
(iii) Notice under section 148A(b) of the Act dated
March 21, 2024 (Ex-C);

(b) This Hon'ble Court be pleased to issue a
Writ of Mandamus or a Writ in the nature of
Mandamus or any other appropriate Writ, order
or direction, directing the Respondents, its
servants, subordinates, agents and successors in
office;

(c) To forthwith withdraw and/or cancel (i)
Notice under section 148 of the Act dated April 12,
2024 (Ex-A); (ii) Order dated April 12, 2024,
passed under section 148A (d) of the Act (Ex-B);
(iii) Notice under section 148A(b) of the Act dated
March 21,2024 (Ex-C);

(d) To forthwith forbear from taking any steps
whatsoever pursuant to or in implementation of
(i) Notice under section 148 of the Act dated April
12, 2024 (Ex-A); (ii) Order dated April 12, 2024,
passed under section 148A (d) of the Act (Ex-B);
(iii) Notice under section 148A(b) the Act dated
March 21,2024 (Ex-C);

(e) That pending the hearing and final disposal
of the present Petition, this Hon'ble Court may be
pleased to stay the operation of (i) Notice under
section 148 of the Act dated April 12, 2024 (Ex-
A); (ii) Order dated April 12, 2024, passed under
section 148A (d) of the Act (Ex-B); (iii) Notice
under section 148A(b) of the Act dated March
21,2024 (Ex-C).”

3. At the outset, Dr. Shivraman, learned senior counsel for the petitioner would submit that the impugned notice as issued to the petitioner under Section 148A(b) of the Act as also the consequent order under Section 148A(d) and the notice issued to the petitioner under Section 148 of the Act, have been issued by the Jurisdictional Assessing Officer (for short, “JAO”). It is submitted that in view of the faceless scheme notified under under Section

151A of the Act by the Central Government vide notification dated 29 March 2022, the JAO did not have an authority to issue the impugned notices, as necessarily, such exercise if at all was required to be undertaken under the faceless assessment scheme. It is his submission that such issue fell for consideration of the Division Bench of this Court in **Hexaware Technologies Limited V/s. Assistant Commissioner of Income Tax, Circle 15(1)(2), Mumbai & Ors.**¹ in which in such context the Court had considered the said issue by framing the following question:-

“(4) Whether the impugned notice dated 27th August 2022 is invalid and bad in law being issued by the JAO as the same was not in accordance with Section 151A of the Act?”

4. The Division Bench examining the provisions of Section 151A of the Act as also the faceless regime which was brought into effect by the Central Government by the notification dated 29 March 2022 came to the conclusion that the Jurisdictional Assessing Officer would cease to have jurisdiction to issue any notice under Section 148A(b) and to take further actions under Section 148A(d) and Section 148 of the Act, outside the faceless assessment. Learned counsel for the respondents would not dispute this position. Thus, the challenge as raised by the petitioner on such ground stands squarely covered by the decision of this Court in *Hexaware Technologies Limited (supra)*.

¹ [2024] 162 taxmann.com 225 (Bom)(HC)

5. In view of the aforesaid discussion, we are of the clear opinion that the petition would be required to be allowed on this short ground without delving on any other contention/ground raised by the petitioner in the present proceedings. Hence, the following order:-

ORDER

i. The writ petition stands allowed in terms of prayer clause (a) which reads thus:-

(a) That this Hon'ble Court may be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate Writ, order or direction, calling for the records of the Petitioner's case and after going into the legality and propriety thereof, to quash and set aside (i) Notice under section 148 of the Act dated April 12, 2024 (Ex-A); (ii) Order dated April 12, 2024, passed under section 148A (d) of the Act (Ex-B); (iii) Notice under section 148A(b) of the Act dated March 21, 2024 (Ex-C).”

ii. Rule is made absolute in the aforesaid terms. No costs.

(SOMASEKHAR SUNDARESAN, J.)

(G. S. KULKARNI, J.)