



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12187 OF 2024

JD Printers Pvt. Ltd.

...Petitioner

Versus

The Income Tax Officer – 15(1)(2) & Ors.

...Respondents

Mr. Akshay Zante for Petitioner.

Mr. Akhileshwar Sharma for Respondents.

CORAM: _____
G. S. KULKARNI &
SOMASEKHAR SUNDARESAN, JJ.

DATE 10 SEPTEMBER 2024

P.C.

1. We have heard learned counsel for the parties. This petition under Article 226 of the Constitution seeks a relief that a notice issued to the petitioner under Section 148A(b) dated 19 March 2024 and the order dated 8 April 2024 passed under Section 148A(d) of the Income Tax Act, 1961, and consequent thereto the notice issued to the petitioner under Section 148 dated 8 April 2024 be quashed and set aside. There is an interim prayer that the impugned notice be stayed.

2. The primary contention as urged on behalf of the petitioner is that the petition would stand covered by the decision of this Court in Hexaware

*Technologies Limited Vs. Assistant Commissioner of Income Tax & 4 Ors.*¹ as also the decision rendered in *Kairos Properties Pvt. Ltd. vs. Assistant Commissioner of Income-tax and Ors.*² as also considering that several similar petitions were allowed, the reliefs as prayed for in this petition in terms of prayer clause (a) also be granted. We find substance in contentions as urged on behalf of the petitioner considering that the impugned notice has been issued by the Jurisdictional Assessing officer, which is outside the faceless mechanism as provided under the provisions of Section 144(B) read with Section 151A and the “Scheme” notified by the Central Government dated 29 March 2022 under Section 151A. It is also correct that in several proceedings which had come up before this Court, the Court had taken into consideration the said decision and had granted reliefs, finally disposing of the petitions.

3. In considering the present proceedings something which has pricked our judicial conscience also needs to be noted, which is to the effect that there are scores of matters being filed, seeking similar reliefs, in which parties are asserting that such proceedings would stand covered by the decision of this Court in **Hexaware**. We have in fact disposed of several cases following the said decision, as rendered by the Division Bench by allowing such petitions. No doubt in all these proceedings decided by this Court following the decision in

1 (2024) 464 ITR 430

2 Writ Petition (L) No. 22686 of 2024 dated 05-08-2024

Hexaware, a fair stand was taken on behalf of the Revenue that the proceeding would stand covered by such decision and accordingly they could be disposed of.

4. However, what now bothers us and more so judicially, is that neither for the assessee nor for the revenue, the ball would stop rolling. This, in as much as, the decision of this Court in **Hexaware**, being already assailed by the Revenue before the Supreme Court, it is stated by Mr. Sharma, that all our judgments which follow the decision in **Hexaware** and the other connected decisions, are now being assailed by the Revenue before the Supreme Court, in the proceedings of a Special Leave Petition being filed under Article 136 of the Constitution of India. This has entailed a peculiar situation, namely that the Revenue is now required to initiate proceedings before the Supreme Court and the assessee would be required to face such proceedings. Thus, the proceedings which stood disposed of by this Court, by such method, in fact, would get transferred to the Supreme Court, in view of the pendency of the Revenue's challenge to the decision of this Court in **Hexaware**.

5. In such circumstances, in our opinion, it is in the interest of the parties, that henceforth we need to have a different approach considering that in disposing of such petitions following **Hexaware**, it would involve both the Revenue as also the assessee to face further proceedings, for the reason that our orders in

such manner create further litigation between the Revenue and the assesseees. We may observe that the endeavor of the Court would always be, that at least, the orders passed by the Court ought not to generate any litigation between the parties much less a further litigation with which we are concerned. In fact, the endeavor of the Court would be that the litigious issues achieve a quietus. This is however only a passing thought, which cannot always be a realistic situation. Be that as it may, admittedly, the Supreme Court is seized with the proceedings arising from Hexaware and an authoritative pronouncement of the Supreme Court on issues of law as involved is awaited. It is also rightly pointed out by Mr. Sharma that this is also burdening the Revenue for the reason of time-bound preparation of appellate proceedings to be filed before the Supreme Court, adding to the substantial expenditure of not only the Revenue but also of the assessee to defend such proceedings, before the Supreme Court. Apart from Hexaware such issues have also arisen before the Supreme Court from the decisions as rendered by the other High Courts.

6. In this view of the matter, we are of the opinion that it would be appropriate that in such matters, our previous approach to dispose of the cases being covered by the said decisions needs a deviation. We are thus inclined to admit this petition and grant interim reliefs to the petitioner with liberty. Hence, the following order:

ORDER

- I. Rule. Respondents waive service.

- II. Pending the hearing and final disposal of this petition, there shall be interim reliefs to the extent that there shall be stay to the notice under Section 148 dated 1 April 2024 and any other proceeding arising under the said notice.

- III. Liberty to the parties to apply after appropriate orders are passed by the Supreme Court and / or final decision of the Supreme Court in Hexaware.

(SOMASEKHAR SUNDARESAN, J.)

(G. S. KULKARNI , J.)