



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

WRIT PETITION (L) NO.19620 OF 2025

Caishen Enterprise LLP

.. Petitioner

Versus

The Assistant Commissioner,
Circle 22(1) & Ors.

.. Respondents

UTKARSH
KAKASAHEB
BHALERAO

**Mr.Madhur Agrawal a/w Jas Sanghavi, Yash Prakash i/b
PDS Legal, Advocates for the Petitioner.**

Ms.Mamta Omle, Advocate for the Respondent.

Digitally signed by
UTKARSH KAKASAHEB
BHALERAO
Date: 2025.07.07
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**CORAM : B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE : JULY 07, 2025**

P. C.

1. The learned Advocate appearing on behalf of the Petitioner Assessee stated that inadvertently Exhibit-A annexed to this Petition is in relation to Assessment Year 2017-18 when in fact the subject matter of the present Petition relates to Assessment Year 2019-20. He, therefore, sought liberty to substitute Exhibit-A with the documents tendered to the Court today and which are taken on record and marked 'X' for identification.

2. Considering this is an inadvertent error, we permit the Petitioner to substitute Exhibit-A in the above Writ Petition with the documents tendered today and marked 'X' for identification.

3. The amendment shall be carried out within a period of 3 days from today. Re-verification is dispensed with.

4. Rule. Respondents waive service. With the consent of the parties, Rule made returnable forthwith and heard finally.

5. The above Writ Petition *inter alia* challenges the Notice issued under Section 148 of the Income Tax Act, 1961 on various grounds. One of the grounds is that the Notice has been issued by the Jurisdictional Assessing Officer when the law mandates that it has to be issued by the Faceless Assessing Officer. This is a fatal defect and therefore the Notice has to be quashed, is the argument of the Petitioner.

6. It is the Petitioners' contention that this issue is squarely covered by a decision of a Division Bench of this Court in the case of ***Hexaware Technologies Ltd. V/S Assistant Commissioner of***

Income-tax, Circle 15(1)(2) [(2024) 162 taxmann.com 225 (Bombay)].

7. On the other hand, the learned Advocate appearing on behalf of the Revenue stated that though it is true that this issue is concluded by the decision in *Hexaware Technologies Ltd (supra)*, the said decision has been challenged before the Hon'ble Supreme Court and the Hon'ble Supreme Court is likely to take up the matter immediately on re-opening. She has fairly stated that there is no stay to the judgment in *Hexaware Technologies Ltd (supra)*.

8. Considering these facts, we do not propose to keep the matter pending in this Court. Once it is fully covered by the decision in *Hexaware Technologies Ltd (supra)*, we are bound to follow it.

9. We accordingly set aside the impugned Notice issued under Section 148 and all other proceedings/orders emanating therefrom.

10. We however grant liberty to the Revenue to revive the above 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 a revival of this Petition and the same can be done simply by moving a Praecipe before this Court.

11. We also make it clear that in such an event, 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 in challenging the Notice issued under Section 148.

12. Rule is accordingly made absolute and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

13. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.]

[B. P. COLABAWALLA, J.]