Nisar Mohibullah Khan v. Principal Commissioner of Income Tax & Ors.

Writ Petition No. 6347 of 2025

2026:BHC-AUG:1053-DB | Writ Petition No. 6347 of 2025 | 2026-01-12

Writ Petition No. 6347 of 2025: JAO notice and consequential proceedings set aside following Hexaware, with express conditional revival and stay provisions.

Income-tax Act, 1961: section 148

High Court of Judicature at Bombay | 2-judge bench (Division Bench, Aurangabad Bench) | Justice Arun R. Pedneker | Justice Vaishali Patil-Jadhav

Assessment years: Not specified in supplied order

Revival is conditional and preserves protection

A Supreme Court reversal on this issue enables Revenue to move a praecipe. Revival does not automatically permit the notice to operate: the source directs a stay until further orders and preserves the other challenges.

01 FACTS OF THE CASE

Nisar Mohibullah Khan challenged the JAO-issued section 148 notice in Writ Petition No. 6347 of 2025. The three-page order does not specify the assessment year, notice date or alleged escaped-income amount. Revenue relied on the Delhi High Court's T.K.S. Builders and GDR Finance decision of 28 October 2024 for concurrent JAO/FAO jurisdiction.

Source: PDF p.1

02 DISCUSSION BY THE HON'BLE COURT

The Bench followed its own Court's Hexaware Technologies decision, under which notices after the scheme's 29 March 2022 promulgation could be issued by the FAO rather than JAO. It recorded Revenue's contrary Delhi authority but maintained the Bombay approach. The order does not cite Abhijit Bhandari or conduct a separate examination of the other notice challenges.

Source: PDF p.1

03 JUDICIAL DECISION

The section 148 notice and all proceedings/orders emanating from it were set aside. If the Supreme Court sets aside Hexaware on this issue, Revenue may seek revival by praecipe without a separate interim application. Upon revival, operation of the notice is stayed until further orders, and the petition must be decided on its own remaining merits. Dismissal of the Hexaware SLP would leave no question of revival.

Source: PDF p.2

04 OUTCOME / IN WHOSE FAVOUR

Writ Petition No. 6347 of 2025 was disposed of with relief to Nisar Mohibullah Khan. The operative result includes the conditional revival mechanism and the protection applicable if revival occurs; it does not decide the other grounds on merits.

Source: PDF p.2

05 EXPERT COMMENTS

The route of issuance decided this petition — Relief follows Hexaware's JAO/FAO jurisdiction distinction. The order does not establish the petitioner's substantive tax liability, escaped-income amount or success on every other objection. Those matters remain distinct.

Revival requires the stated event and procedure — The trigger is Hexaware being set aside on this issue, followed by Revenue moving a praecipe. A pending challenge alone is not the trigger, and dismissal of that SLP rules out this revival route.

Protection survives revival until further orders — The notice remains stayed when the petition is revived, and the other grounds must be heard on their merits. Reversal of the precedent therefore does not itself resolve every objection or authorise immediate implementation of this notice.

Preserve this docket separately — This note concerns Writ Petition No. 6347 of 2025 and its own notice. Similar wording in another taxpayer's order does not merge the cases or establish the same assessment year. The source does not identify that year.

Source: PDF p.1

SOURCE & VERIFICATION

High Court of Judicature at Bombay official judgment PDF - AKHB Repository (20260112_HCBM030178472025.pdf)

3-page official High Court of Judicature at Bombay judgment PDF (20260112_HCBM030178472025.pdf, 54,353 bytes).

Complete source text and every original page visually reviewed; identity and SHA-256 checked. AI-assisted source analysis.

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STATUTORY SCOPE

The order expressly mentions section 148 and the faceless reassessment scheme of 29 March 2022. It does not reproduce the notification or separately analyse sections 144B, 148A or 151A.

LATER TREATMENT

Source checked 2026-10-21. Subsequent judicial treatment has not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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