Ashok Mohanrao Tapse v. Principal Commissioner of Income Tax & Anr.

Writ Petition No. 516 of 2026

2026:BHC-AUG:3413-DB | Writ Petition No. 516 of 2026 | 2026-01-23

JAO-issued section 148 notice and consequential proceedings set aside following Hexaware; contingent revival by praecipe with a stay until further orders.

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:

Contingent revival is not automatic validation of the notice

If Hexaware is set aside by the Supreme Court on this issue, Revenue may seek revival by praecipe. On revival the notice remains stayed until further orders, and the other grounds require adjudication. Subsequent treatment has not been checked.

01 FACTS OF THE CASE

Ashok Mohanrao Tapse challenged the JAO-issued section 148 notice in Writ Petition No. 516 of 2026. The short order addresses the issuing officer's jurisdiction following the faceless reassessment scheme of 29 March 2022. It does not identify the assessment year, notice date, alleged escaped income or the factual basis of the other grounds.

Source: PDF p. 1, paras 1-2

02 DISCUSSION BY THE HON'BLE COURT

The Bench followed Hexaware Technologies Ltd. v. ACIT, (2024) 162 taxmann.com 225 (Bombay), and its consistent view that the FAO, rather than the JAO, could issue the notice after 29 March 2022. Revenue relied on T.K.S. Builders/GDR Finance, W.P.(C) 1968/2023 and connected matters, decided by Delhi High Court on 28 October 2024, for concurrent jurisdiction. The Bench continued to apply Hexaware.

Source: PDF pp. 1-2, paras 2-4

03 JUDICIAL DECISION

The Court set aside the section 148 notice and all proceedings/orders emanating from it. Revenue was given liberty to revive this petition by praecipe, without a separate interim application, if the Supreme Court sets aside Hexaware on this issue. If revived, operation and implementation of the notice would remain stayed until further orders and the other grounds would be decided on their merits. Dismissal of the Hexaware SLP would leave no occasion for revival.

Source: PDF pp. 2-3, paras 5-8

04 OUTCOME / IN WHOSE FAVOUR

Writ Petition No. 516 of 2026 was disposed of with relief to Ashok Mohanrao Tapse on the issuing-authority issue and the stated contingent revival mechanism. The other challenges to the notice were not adjudicated.

Source: PDF pp. 2-3, paras 5-8

05 EXPERT COMMENTS

Track consequential relief within this petition — Paragraph 5 sets aside both the challenged notice and proceedings or orders emanating from it. Identifying that causal connection is important: the order does not cancel unrelated tax proceedings. The missing notice date and assessment year must be obtained from the petition record before applying the relief to a particular demand; neither should be invented from the scheme's commencement date.

Revival requires a step and preserves interim protection — The trigger is a Supreme Court decision setting aside Hexaware on this issue, followed by Revenue moving a praecipe for revival. The order dispenses with a separate interim application; it does not declare automatic revival or validation of the notice. Once revived, the express stay lasts until further orders, rather than necessarily until final disposal.

The remaining grounds remain available for adjudication — Paragraph 7 recognises several other challenges but neither identifies nor decides them. A reversal of Hexaware would therefore reopen this petition for consideration of those grounds, not establish escaped income or defeat every objection. The source also expressly excludes revival if the Supreme Court dismisses the SLP.

Use the competing authorities within the recorded posture — This Bench follows its Hexaware line despite Revenue's reliance on the Delhi concurrent-jurisdiction decision. It does not reproduce the scheme or resolve every statutory argument afresh. The disposition is historical and case-specific; the order alone cannot certify the present status of Hexaware or guarantee the result of every other JAO notice.

Source: Editorial analysis; source references in the structured comments

SOURCE & VERIFICATION

High Court of Judicature at Bombay official judgment PDF - AKHB Repository (20260123_HCBM030523662025.pdf)

3-page official High Court of Judicature at Bombay judgment PDF (20260123_HCBM030523662025.pdf, 54,058 bytes).

All 3 original pages read and visually inspected; source hash verified. AI-assisted substantive correction.

Open cited source rendition

Source bytes and identity checked; see panel-specific references and disclosed source anomalies.

STATUTORY SCOPE

Section 148 is expressly discussed. The source refers to the faceless scheme promulgated on 29 March 2022 but does not reproduce its text or expressly analyse sections 144B, 147, 148A or 151A. No assessment year or notice date is stated.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment not 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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