Kalpana Ashok Tapse v. The Principal Commissioner of Income Tax & Anr.

Writ Petition No. 565 of 2026

2026:BHC-AUG:3401-DB | 2026-01-23

JAO notice and consequential proceedings set aside following Hexaware, with precisely conditioned revival and continued protection on revival.

Income-tax Act,1961: sections 148

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

Assessment years: Not specified in order text

01 FACTS OF THE CASE

Kalpana Ashok Tapse challenged the Jurisdictional Assessing Officer's notice under section 148 in Writ Petition No. 565 of 2026. The Court considered its existing Hexaware approach to notices after the faceless reassessment scheme of 29 March 2022. Revenue relied on the contrary concurrent-jurisdiction view in T. K. S. Builders / GDR Finance, decided by the Delhi High Court on 28 October 2024.

Source: PDF pp.1–2, paras 1–3

02 DISCUSSION BY THE HON'BLE COURT

The Division Bench followed the Bombay High Court's decision in Hexaware Technologies Ltd. v. ACIT, (2024) 162 taxmann. com 225. It applied that Court's consistent view that, after 29 March 2022, a section 148 notice could be issued by the FAO, not the JAO, notwithstanding the Delhi authority cited by Revenue.

Source: PDF pp.1–2, paras 2–4

03 JUDICIAL DECISION

The notice and all emanating proceedings/orders were set aside. Revenue could seek revival by praecipe, without a separate interim application, if the Supreme Court set aside Hexaware on this issue. On revival, operation and implementation of the notice would remain stayed until further orders; the other grounds would require decision on their own merits. Dismissal of the SLP would give no occasion for revival.

Source: PDF pp.2–3, paras 5–8

04 OUTCOME / IN WHOSE FAVOUR

Relief to the petitioner on the notice-issuing authority issue, with the stated conditional revival mechanism. The writ petition was disposed of; other challenges were not adjudicated.

Source: PDF pp.2–3, paras 5–8

05 EXPERT COMMENTS

AKHB Expert Comments — editorial analysis, distinct from the Court's findings.

The jurisdiction ground explains this petitioner's relief: In Writ Petition No. 565 of 2026, the Court resolved the notice challenge through its own Hexaware line despite Revenue's reliance on the Delhi concurrent-jurisdiction view. The operative reasoning concerns who could issue the notice under the recorded scheme. It does not decide the escaped-income allegations, the quantum of tax or the other grounds raised by Kalpana Ashok Tapse. (PDF pp.1–2, paras 1–5)

Revival is tied to a specific event, not any later development: The permission depends on the Supreme Court setting aside Hexaware on this issue. Paragraph 6 permits a praecipe instead of a separate interim application and expressly rules out revival if the SLP is dismissed. A party relying on the order must distinguish this conditional mechanism from an unconditional end to every possible proceeding; the judgment itself does not report the future Supreme Court outcome. (PDF pp.2–3, para 6)

Revival would not immediately restore enforcement: Even if the petition were revived, implementation and operation of the challenged notice would remain stayed until further orders. Paragraph 7 also preserves adjudication of the other grounds on their own merits. The practical significance is to retain both the protection against immediate implementation and the unresolved grounds, rather than treating revival as an automatic Revenue win. (PDF p.3, paras 6–7)

Source: PDF pp.1–2, paras1–5

SOURCE & VERIFICATION

Original judgment PDF (20260123_HCBM030523632025.pdf)

Complete 3-page original read and every page visually reviewed; source bytes verified. Commentary is editorial analysis of this order, not current-law clearance.

Full original and all five note panels re-reviewed on 21 October 2026; unsupported supplied assertions removed.

Open cited source rendition

Complete original source and all five note panels checked; original docket identities preserved.

STATUTORY SCOPE

Only provisions expressly stated in this order are indexed. Subsequent treatment and current law have not been independently verified.

LATER TREATMENT

Source checked 2026-10-21. Subsequent proceedings and current judicial treatment have 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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