Prakash Arunrao Shete v. Income Tax Officer, Aurangabad & Ors. (WP 5182/2025)

Writ Petition No. 5182 of 2025

2026:BHC-AUG:4330-DB | Writ Petition No. 5182 of 2025 | 2026-01-30

JAO reassessment notice set aside following Hexaware; conditional revival and protection upon revival in Writ Petition No. 5182 of 2025.

Income-tax Act,1961: sections 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 order text

01 FACTS OF THE CASE

Prakash Arunrao Shete challenged a section 148 notice issued by the Jurisdictional Assessing Officer (JAO) in Writ Petition No. 5182 of 2025. The three-page order identifies the issuing authority dispute but does not state the assessment year, notice date or alleged escaped-income amount.

Source: PDF p.1, caption and para 1; pp.1–3

02 DISCUSSION BY THE HON'BLE COURT

The Court followed Hexaware Technologies Ltd. v. ACIT (2024)162 taxmann. com 225 (Bombay), under which only the Faceless Assessing Officer could issue the notice after the scheme of 29 March 2022. Revenue relied on the Delhi High Court decision in T. K. S. Builders/GDR Finance dated 28 October 2024 in WP(C)1968/2023 and connected matters for concurrent JAO/FAO jurisdiction. The Bench continued to apply its own Court's Hexaware decision.

Source: PDF pp.1–2, paras 2–4

03 JUDICIAL DECISION

The impugned 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, implementation and operation of the notice are stayed until further orders. If the SLP is dismissed, there is no revival. A revived petition must be decided on its own merits, with the other challenges remaining for consideration.

Source: PDF pp.2–3, paras 5–7

04 OUTCOME / IN WHOSE FAVOUR

Writ Petition No. 5182 of 2025 disposed of on those terms. Relief rests on the issuing authority issue; the Court did not determine the underlying tax liability.

Source: PDF p.3, paras 7–8

05 EXPERT COMMENTS

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

The relief follows the notice's jurisdictional defect: In Writ Petition No. 5182 of 2025, the Court applied Hexaware despite Revenue's reliance on the contrary Delhi decision. Setting aside proceedings emanating from the notice gives the jurisdictional conclusion consequential effect, but does not establish that the alleged income was correctly disclosed or that no tax could be due. Applying the order requires identifying the challenged notice and the proceedings derived from it, rather than treating the result as a finding on the taxpayer's transactions. (PDF pp.1–2, paras 1–5)

Revival and enforceability are separate questions: Paragraph 6 makes revival conditional on the Supreme Court setting aside Hexaware on this issue. The praecipe route does not automatically restore every notice following any later decision. Even if this petition is revived, the notice's implementation and operation remain stayed until further orders. The Court did not fix that stay's duration as extending inevitably to the final merits decision. (PDF pp.2–3, para 6)

Preserve the individual petition and its remaining grounds: Paragraph 7 preserves consideration of the other challenges if the petition is restored. The order does not identify or decide those grounds, so the petition and notice remain necessary to assess them. The missing assessment year and notice date cannot be supplied from the 2022 scheme date. Similar orders involving the same taxpayer remain distinct dockets. (PDF p.1, caption; p.3, paras 7–8)

Source: PDF pp.1–2, paras1–5

SOURCE & VERIFICATION

High Court of Judicature at Bombay official judgment PDF - AKHB Repository (20260130_HCBM030148032025.pdf)

Complete three-page original reviewed; source bytes verified.

All five panels checked against the original.

Open cited source rendition

STATUTORY SCOPE

Section 148 is expressly cited; other provisions are not indexed.

LATER TREATMENT

Source checked 2026-10-21. Subsequent treatment unverified.

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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