2026:BHC-AS:24103-DB

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11418 OF 2024

Deepbharti Welfare Society .. Petitioner

Versus

Income Tax Exemption Ward Thane
and Ors. .. Respondents

Mr. Sham V. Walve, *with Bhavik Chheda, i/b Sameer Dalal, for the Petitioner.*

Adv. A.K. Saxena, *for the Respondent-Revenue.*

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: JUNE 16, 2026

P. C.

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

2. The above Writ Petition was filed by the Petitioner challenging the impugned Notice dated 30th March 2022 under Section 148 of the Income Tax Act, 1961 (for short "**IT Act**") and the consequential Assessment Order dated 22nd March 2023 for A.Y. 2015–16 primarily on the ground of non-compliance with Section 151A of the IT Act, i.e., to say that the

Jurisdictional Assessing Officer had no jurisdiction to issue the impugned notice under Section 148 of the IT Act and that it ought to have been issued only by the Faceless Assessing Officer.

3. Consequently, a co-ordinate bench of this Court, vide an Order dated 26th August 2024, heard the matter finally and allowed the Petition in terms of Prayer Clause (a) of the Petition thereby quashing the impugned notice under Section 148 of the IT Act and all consequential orders/notices, solely on the ground of non-compliance with Section 151A of the IT Act by relying on the judgment of ***Hexaware Technologies Ltd. vs. Assistant Commissioner of Income-tax [2024] 162 taxmann.com 225 (Bombay)***.

4. Thereafter, this order dated 26th August 2024 was challenged by the Department before the Hon'ble Supreme Court in SLP(c) No. 20058/2025. The SLP was tagged and heard along with a batch of matters with ***Income Tax Officer, Ward 2(1), Chandigarh & Ors. vs. Tej Partap Singh SLP (Diary) No. 2196 of 2026***, being the lead matter. Ultimately, the Hon'ble Supreme Court passed an order dated 10th April 2026 and remitted all the matters back to the respective High Courts without expressing any opinion on the merits of the controversy, particularly in light of the retrospective amendment by way of the Finance Act, 2026.

5. In this backdrop, the present Writ Petition has now come up before us for fresh adjudication. We have heard the learned counsel for the parties and considered the circumstances in the present case.

6. Mr. Walve, the learned counsel for the Petitioner, fairly pointed out that before filing the present Writ Petition, the Petitioner had also filed an appeal before the learned Commissioner of Income Tax (Appeals) challenging the Assessment Order dated 22nd March 2023. Soon after this Court passed the order dated 26th August 2024 allowing the Writ Petition, the learned Commissioner (Appeals) passed an order dated 11th September 2024 treating the appeal as defunct in light of this Court's order and noted that none of the other grounds raised therein were being dealt with in view of this Court's order. It was further noted that the appellate proceedings will get revived if a decision comes in favour of the Department on the issue of Section 151A controversy. In effect, the appeal was allowed for statistical purposes.

7. Mr. Walve pointed out that this order of the learned Commissioner (Appeals) was further carried to the Income Tax Appellate Tribunal by the Department in ITA No. 5816/MUM/2024 on the ground that the learned Commissioner (Appeals) erred in placing reliance on the judgment of ***Hexaware (supra)***, ignoring the fact that the same was sub-judice before the Hon'ble Supreme Court. The Income Tax Appellate Tribunal passed the final order dated 3rd January 2025 and held that since the Assessment Order had already been quashed by this Court in the Writ Petition, the Department's appeal would become infructuous.

8. Under such circumstances, it was urged before us that the present Writ Petition can be disposed of by directing the learned Commissioner (Appeals) to revive the Petitioner's appeal bearing No. NFAC/2014-15/10252562 and the Petitioner be permitted to raise all grounds on legality as well as merits of the re-assessment, including that of limitation (for issuance of notice under Section 148 of the Act for A.Y. 2015–16) before the learned Commissioner (Appeals). It was also urged that the appeal be adjudicated in a time-bound manner after duly providing sufficient opportunity of hearing to the Petitioner and, in the meantime, no coercive action be taken against the Petitioner pursuant to the Assessment Order dated 22nd March 2023.

9. Mr. Saxena, the learned Counsel for the Respondents, does not dispute the said position. He submits that the appeal may be revived before the learned Commissioner (Appeals) and the same can be adjudicated on its own merits.

10. In light of the aforesaid discussion and without expressing any opinion on the merits of this Writ Petition, we propose to pass the following order:

a) Respondent No. 1, as well as the concerned Principal Commissioner of Income Tax, shall ensure to take steps for the revival of the said appeal by intimating the appropriate authorities of the NFAC at the earliest;

b) Thereafter, the learned Commissioner (Appeals) is hereby directed to revive the Appeal bearing No. NFAC/2014-15/10252562 filed by the Petitioner challenging the Assessment Order dated 22nd March 2023;

c) The Petitioner is permitted to raise additional grounds on legality as well as merits of the re-assessment, including that of ‘limitation to issue notice’ under Section 148 of the IT Act relating to A.Y. 2015–16;

d) The learned Commissioner (Appeals) to provide an opportunity of hearing to the Petitioner and give advance notice of at least 5 working days;

e) During the pendency of the Appeal before the learned Commissioner (Appeals), the Assessment Order dated 22nd March 2023 shall not be acted upon;

f) The learned Commissioner (Appeals) shall endeavour to complete the entire exercise and pass a final order within 3 months from the date of uploading this order;

11. We make it clear that we have not expressed any opinion on the merits of the present Petition, and the said appeal be adjudicated on its own merits and in accordance with law, in the above terms.

12. Rule is made absolute in the above terms, and the Writ Petition is disposed of in terms thereof. No orders 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.]**