IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.16750 OF 2024

Abhin Anilkumar Shah .... Petitioner
Vs.
Income-tax Officer, International Tax Ward Circle 4(2)(1), Mumbai & Ors. .... Respondents

---

Mr. Gunjan Kakkad i/b. Mint & Confrers for the Petitioner.
Ms Swapna Gokhale a/w. Ms Shilpa Goel for the Respondents.
Mr. Jehangir D. Mistri, Senior Advocate as Amicus Curiae.

CORAM : G. S. KULKARNI &
SOMASEKHAR SUNDARESAN, JJ.

DATE : 28 AUGUST, 2024

Oral Judgment : (Per : G.S. Kulkarni, J.)

1. Rule. Rule made returnable forthwith. Learned counsel for the respondents waives service. By consent of the parties, heard finally.

2. This writ petition under Article 226 of the Constitution of India is filed challenging notice dated 31 March, 2021 issued to the petitioner under Section 148A(b); order dated 19 April, 2024 passed under Section 148A(d) and the notice dated 19 April, 2024 ("***impugned notice***") issued under Section 148 of the Income Tax Act, 1961 (***"the Act"***) by the Jurisdictional Assessing Officer, International Tax Ward (4)(2)(1),

Mumbai.

3. At the outset, learned Counsel for the petitioner would submit that the impugned notice dated 31 March, 2021 issued under Section 148A(b) as also the order under section 148A(d) leading to the issuance of an impugned notice dated 19 April, 2024 under section 148 of the Act are in the teeth of the provisions of section 151A read with the provisions of section 144B and the scheme notified by the Central Government vide a Notification dated 29 March, 2022 under section 151A of the Act whereunder the respondents are under a mandate to follow the faceless mechanism, in resorting to any procedure/action under section 148A as also to issue notice under section 148 of the Act. It is submitted that the position in law being asserted by the petitioner is no more *res integra* in view of the decision rendered by a co-ordinate Bench of this Court in ***Hexaware Technologies Limited Vs. Assistant Commissioner of Income Tax & 4 Ors.***[1] ***("Hexaware")***, wherein the Court considering the effect of the provisions of section 151A read with provisions of section 144B as also considering the provisions of section 148A and 148 of the Act has held that the Jurisdictional Assessing Officer(JAO) would not have jurisdiction to resort to an action under section 148A, as also to issue notice under section 148 of the Act, outside the faceless mechanism and contrary to the scheme notified by the Central Government vide a Notification dated 29

1 (2024) 464 ITR 430

March, 2022. The relevant observations of the Division Bench are required to be noted, which reads thus:-

> "35 Further, in our view, there is no question of concurrent jurisdiction of the JAO and the FAO for issuance of notice under Section 148 of the Act or even for passing assessment or reassessment order. When specific jurisdiction has been assigned to either the JAO or the FAO in the Scheme dated 29th March, 2022, then it is to the exclusion of the other. To take any other view in the matter, would not only result in chaos but also render the whole faceless proceedings redundant. If the argument of Revenue is to be accepted, then even when notices are issued by the FAO, it would be open to an assessee to make submission before the JAO and vice versa, which is clearly not contemplated in the Act. Therefore, there is no question of concurrent jurisdiction of both FAO or the JAO with respect to the issuance of notice under Section 148 of the Act. The Scheme dated 29th March 2022 in paragraph 3 clearly provides that the issuance of notice "shall be through automated allocation " which means that the same is mandatory and is required to be followed by the Department and does not give any discretion to the Department to choose whether to follow it or not. That automated allocation is defined in paragraph 2(b) of the Scheme to mean an algorithm for randomised allocation of cases by using suitable technological tools including artificial intelligence and machine learning with a view to optimise the use of resources. Therefore, it means that the case can be allocated randomly to any officer who would then have jurisdiction to issue the notice under Section 148 of the Act. It is not the case of respondent no.1 that respondent no.1 was the random officer who had been allocated jurisdiction.
>
> 36. With respect to the arguments of the Revenue, i.e., the notification dated 29th March 2022 provides that the Scheme so framed is applicable only 'to the extent' provided in Section 144B of the Act and Section 144B of the Act does not refer to issuance of notice under Section 148 of the Act and hence, the notice cannot be issued by the FAO as per the said Scheme, we express our view as follows:-
>
> > **Section 151A of the Act itself contemplates formulation of Scheme for both assessment, reassessment or recomputation under Section 147 as well as for issuance of notice under Section 148 of the Act.** Therefore, the Scheme framed by the CBDT, which covers both the aforesaid aspect of the provisions of Section 151A of the Act cannot be said to be applicable only for one aspect, i.e., proceedings post the issue of notice under Section 148 of the Act being assessment, reassessment or recomputation under Section 147 of the Act and inapplicable to the issuance of notice under Section 148 of the Act. **The Scheme is clearly applicable for issuance of notice under Section 148 of the Act and accordingly, it is only the FAO which can issue the notice under Section 148 of the Act and not the JAO.** The argument advanced by respondent would render clause 3(b) of the Scheme otiose and to be ignored or contravened, as according to respondent, even though the Scheme specifically provides for issuance of notice under Section 148 of the Act in a faceless manner, no notice is required to be issued under Section 148 of the Act in a faceless manner. In such a situation, not only clause 3(b) but also the first two lines below clause 3(b) would be otiose, as it deals with the

> aspect of issuance of notice under Section 148 of the Act. Respondents, being an authority subordinate to the CBDT, cannot argue that the Scheme framed by the CBDT, and which has been laid before both House of Parliament is partly otiose and inapplicable. ……..”
>
> 37 When an authority acts contrary to law, the said act of the Authority is required to be quashed and set aside as invalid and bad in law and the person seeking to quash such an action is not required to establish prejudice from the said Act. An act which is done by an authority contrary to the provisions of the statue, itself causes prejudice to assessee. All assessees are entitled to be assessed as per law and by following the procedure prescribed by law. Therefore, when the Income Tax Authority proposes to take action against an assessee without following the due process of law, the said action itself results in a prejudice to assessee. Therefore, there is no question of petitioner having to prove further prejudice before arguing the invalidity of the notice.”
>
> (emphasis supplied)

4. When we heard the learned counsel for the parties on the earlier occasion (on 14 August, 2024), an objection was raised by Ms Shilpa Goel, learned counsel for the revenue to the effect that the provisions of section 151A and the scheme notified by the Central Government dated 29 March, 2022, cannot be made applicable to the present case which relates to an assessment falling under international taxation charge. In support of such contention, Ms Goel placed reliance on order dated 6 September, 2021 of the Central Board of Direct Taxes issued under section 119 of the Act, providing for exclusion of such class of cases from the purview of section 144B of the Act, providing for faceless mechanism. Contesting such contention as urged on behalf of the Revenue, learned counsel for the petitioner has drawn our attention to the decision of this Court in ***CapitalG LP Vs. Assistant Commissioner of Income Tax, Int.***

Tax, Circle 2(1)(1), Mumbai & Ors.[2] (*"CapitalG LP"*). In such case, a similar objection raised on behalf of the revenue, was not accepted by the Court as seen from the observations in Paragraphs 10 and 11 of the said judgment which we intend to refer hereinafter. Such were the contentions canvassed before us on the earlier occasion. We may observe that to some extent we were persuaded to ponder whether our observations in Paragraphs 10 and 11 in *CapitalG LP* would require a reconsideration, we passed the following order:-

> "1. List this petition on 19 August 2024 along with Writ Petition (L) 15289 of 2024 (Capital GLP Vs. Assistant Commissioner of Income Tax 2(1)(1), Mumbai and Ors.), wherein we intend to reconsider our observations in paragraph Nos. 11 and 12."

5. On the above backdrop, today we have heard learned counsel for the parties. We also requested Mr. Mistry, learned senior counsel to assist the Court to which he fairly agreed. He has made elaborate submissions.

6. Considering the submissions as advanced before us as to whether our observations made in paragraphs 11 & 12 in *CapitalG LP* (supra) would require reconsideration, we are now of the clear opinion that such observations do not require any reconsideration. The following discussion would aid our conclusion.

7. At the outset, we may note as to what was held in our decision in *CapitalG LP,* in the context of a similar objection which was raised on

2 WPL.15289 of 2024

behalf of the revenue, referring to an order issued by the CBDT under sub-section (2) of Section 144B dated 31 March, 2021 and in regard to the assessment proceedings initiated on or after 1 April, 2021 qua the context of the Central Charges and International Taxation charges, the Court observed thus:

> "10. Mr. Bhosle, learned counsel for the respondents would not deny as to what has been held by this Court in Hexaware Technologies Limited (supra) and the applicability of the provisions of Section 151A(1) to any notice issued under section 148 or even to the proceedings initiated under section 148A of the Act. He would however submit that the present case is required to be made an exception considering the order dated 31 March, 2021 issued by Central Board of Direct Taxes under Section 144B(2) of the Act. To examine such contention, we may note the contents of the said order so as to ascertain whether the same is required to be considered, so as to exclude the applicability of Section 151A(1) read with Section 144B to the case in hand, which relate to a foreign entity and more particularly, when the order provides that all assessment proceedings pending as on 31 March, 2021 and the assessment proceedings initiated on or after 1 April, 2021 (other than those in the Central Charges and International Taxation charges) falling under the class as specified in (a) to (d) of such order would not attract the provisions of Faceless mechanism. The said order reads thus:
>
> F.No. 187/3/2020-ITA-1
> Government of India
> Ministry of Finance
> Department of Revenue
> (Central Board of Direct Taxes)
>
> North Block, New Delhi – 110001
> Dated the 31 March, 2021
>
> **Order under sub-section (2) of Section 144B of the Income-tax Act, 1961 for specifying the scope/cases to be done under the Act –regarding**
>
> In pursuance of sub-section (2) of Section 144B of the Income-tax Act, 1961 (hereinafter referred to as "the Act"), **the Central Board of Direct Taxes hereby specifies that all the assessment proceedings pending as on 31.03.2021 and the assessment proceedings initiated on or after 01.04.2021 (other than those in the** Central Charges and International Taxation charges) which fall under the following class of cases shall be completed under section 144B of the Act.
>
> a. where the notice under section 143(2) of the Act was/is issued by the (erstwhile) NeAC or by the NaFAC;
>
> b. where the assessee has furnished her/his return of income under section 139 or in response to a notice issued under section 142(1) or section 148(1); and a notice under section 143(2) of the Act, has been issued by the Assessing Officer or the Prescribed Income-tax Authority, as the case

may be;

c. where the assessee has not furnished her/his return of income in response to a notice issued under section 142(1) of the Act by the Assessing officer;

d. where the assessee has not furnished her/his return of income under section 148(1) of the Act and a notice under section 142(1) of the Act has been issued by the Assessing Officer.

2. This order shall come into force with effect from the 1 st day of April, 2021.

Sd/-
(Gulzar Ahmad Wani)
JCIT(OSD)(ITA-1)"

11. From a bare reading of the aforesaid order, we are not inclined to accept the case of respondents that the provisions of Section 144B read with the provisions of Section 151A(1) would not be applicable to the case in hand. The reason being the challenge in the present proceedings is to a notice issued under section 148 of the Act and the prior proceedings as initiated against the petitioner under section 148A(a) & (b). We cannot read the order to mean that it would cover the proceedings under Section 148A and Section 148 of the Act so as to fall within the ambit of the said order, as it is only the assessment proceedings which would be required to be conducted as an exception to the faceless mechanism. In this context, Mr. Mistry has drawn our attention to the observations of the Division Bench in the decision of Hexaware Technologies Limited (supra) wherein the contentions as urged on behalf of the revenue was noted in paragraph 36 and the same has not been accepted and/or were negatived. We note the observations of the Division Bench, which reads thus:

> *"36. With respect to the arguments of the Revenue, i.e., the notification dated 29th March 2022 provides that the Scheme so framed is applicable only 'to the extent' provided in Section 144B of the Act and Section 144B of the Act does not refer to issuance of notice under Section 148 of the Act and hence, the notice cannot be issued by the FAO as per the said Scheme, we express our view as follows:-*
>
> > ***…..*** *Therefore, if Revenue's arguments are to be accepted, there is no purpose of framing a Scheme only for clause 3(a) which is in any event already covered under faceless assessment regime in Section 144B of the Act. The argument of respondent, therefore, renders the whole Scheme redundant. An argument which renders the whole Scheme otiose cannot be accepted as correct interpretation of the Scheme. The phrase "to the extent provided in Section 144B of the Act" in the Scheme is with reference to only making assessment or reassessment or total income or loss of assessee. Therefore, for the purposes of making assessment or reassessment, the provisions of Section 144B of the Act would be applicable as no such manner for reassessment is separately provided in the Scheme. For issuing notice, the term "to the extent provided in Section 144B of the Act" is not relevant. The Scheme provides that the notice under Section 148 of the Act, shall be issued through automated allocation, in accordance with risk*

> *management strategy formulated by the Board as referred to in Section 148 of the Act and in a faceless manner. Therefore, "to the extent provided in Section 144B of the Act" does not go with issuance of notice and is applicable only with reference to assessment or reassessment. The phrase "to the extent provided in Section 144B of the Act" would mean that the restriction provided in Section 144B of the Act, such as keeping the International Tax Jurisdiction or Central Circle Jurisdiction out of the ambit of Section 144B of the Act would also apply under the Scheme. Further the exceptions provided in sub-section (7) and (8) of Section 144B of the Act would also be applicable to the Scheme."*
>
> [Emphasis Supplied]

8. We have clearly observed that the order dated 31 March, 2021 cannot be read to mean that it would cover the proceedings under Section 148A and Section 148 of the Act so as to fall within the ambit of the said order, as it was only the assessment proceedings which were required to be undertaken as an exception to the faceless mechanism, under the said order. In other words, we had clearly held that the faceless mechanism would also be applicable to cases of Central Charges and International Taxation charges and it is only the assessment proceedings which would be required to be undertaken outside the faceless mechanism.

9. However, in the present case, Ms. Shilpa Goel, learned counsel for the revenue referred to a subsequent order dated 6 September, 2021 issued by the CBDT under section 119 of the Act to submit that such order reiterates an exception from the applicability of the provisions of section 144B of the Act (i.e. for orders to be passed by the National Faceless Assessment Centre) in two categories of cases, firstly, in case of

assessment orders in cases assigned to the Central Charges and secondly the assessment orders in cases assigned to international taxation charges. For clarity, it would be appropriate to note the order dated 6 September, 2021, which reads thus :-

F No. 187/3/2020-ITA-I
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Direct Taxes)
*****

North Block, New Delhi
Dated, the 6th September, 2021

ORDER

Subject:- Order under section 119 of the Income-tax Act, 1961 (the Act) providing exclusions to section 144B of the Act.

The Faceless Assessment Scheme, 2019 (the Scheme) has been incorporated in the Act vide the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020. Section 144B of the Act pertaining to Faceless Assessment has been inserted by the said amendment w.e.f. 01.04.2021.

2. The Central Board of Direct Taxes vide Order F.No.187/3/2020-ITA-I dated 13th August, 2020 (the Order) read with order under section 119 of the Act regarding mutatis mutandis application of Orders, Circulars etc. issued in order to implement the Scheme to Faceless Assessment u/s 144B of the Act, F.No. 187/3/2020-ITA-I dated 31st March 2021 directed that all the Assessment Orders shall be passed by the National Faceless Assessment Centre (NaFAC) u/s 144B of the Act except as under:

(i) Assessment orders in cases assigned to Central Charges.
(ii) Assessment orders in cases assigned to International Tax Charges.

3. In partial modification of the said Order, the Central Board of Direct Taxes in exercise of powers under section 119 of the Act, hereby directs that in addition to exceptions (i) & (ii) provided in Para 2 of the Order, the following exception is also hereby added as under:-

(iii) Assessment Orders in cases where pendency could not be created on ITBA because of technical reasons or cases not having a PAN, as the case may be.

4. Further, the Central Board of Direct Taxes clarifies that assessment in cases transferred by the Principal Chief Commissioner or the Principal Director General in charge of National Faceless Assessment Centre (NaFAC) u/s 144B(8) of the Act shall be handled as per the procedure

specified in the letter F.No. 225/97/2021/ITA-II dated 06th September, 2021.

5. This order comes into effect immediately.

(Sourabh Jain)
Under Secretary (ITA-I), CBDT
(emphasis supplied)

10. Thus, from the reading of aforesaid order dated 6 September, 2021, it is clear that the CBDT has referred to the order dated 31 March, 2021 (supra) issued in relation to the assessment orders in cases assigned to Central Charges and assessment orders in cases assigned to International Tax Charges, being not required to be passed under the National Faceless Assessment Centre (NaFAC). However, what has been done by such order is to modify the order dated 31 March, 2021 to the extent of what is set out in paragraph 3 thereof, namely, that in addition to such exceptions to the applicability of the faceless mechanism to assessment orders in relation to Central Charges and International Tax Charges, an additional exception was added, namely, to the assessment order in cases where pendency could not be created on ITBA because of technical reasons or cases not having a PAN, as the case may be. Thus, the fact remains that as to what was provided by order dated 31 March, 2021 (supra) in relation to non-applicability of the faceless mechanism to "assessment orders" in cases assigned to Central Charges and International Tax Charges, the position under order dated 31 March, 2021 remained undisturbed and continue to operate. It is thus clear that what was

brought within the purview of the order dated 31 March, 2021 (supra) and subsequent order dated 6 September, 2021 was the non-applicability of faceless mechanism (NaFAC) only to the "assessment orders" in cases assigned to Central Charges and International Tax Charges and not to the applicability of any prior procedure as contemplated under sections 148A and Section 148 of the Act as held by us in CapitalG LP.

11. Thus, the scheme as framed under section 151A and notified under the notification dated 29 March, 2022 does not include the applicability, inclusion or even reference to the orders dated 31 March, 2021 and 6 September, 2021. Such is the consistent view in both the decisions in Hexaware Ltd. (supra) as also in CapitalG LP. So as to complete the sequence of events, it would be appropriate to note the Notification dated 29 March, 2022 as issued by the Central Government notifying the scheme namely the "E-Assessment of Income Escaping Assessment Scheme 2022". The said notification reads thus:-

MINISTRY OF FINANCE
(Department of Revenue)
(CENTRAL BOARD OF DIRECT TAXES)
NOTIFICATION
New Delhi, the 29th March, 2022

S.O. 1466(E).- In exercise of the powers conferred by sub-sections (1) and (2) of section 151A of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following Scheme, namely:-

1. Short title and commencement. (1) This Scheme may be called the e-Assessment of Income Escaping Assessment Scheme, 2022

(2) It shall come into force with effect from the date of its publication in the Official Gazette

2. Definitions.- (1) In this Scheme, unless the context otherwise requires,-

(a) "Act" means the Income-tax Act, 1961 (43 of 1961);

(b) "automated allocation" means an algorithm for randomised allocation of cases, by using suitable technological tools, including artificial intelligence and machine learning, with a view to optimise the use of resources.

(2) Words and expressions used herein and not defined, but defined in the Act, shall have the meaning respectively assigned to them in the Act.

3. Scope of the Scheme.- For the purpose of this Scheme,-

(a) assessment, reassessment or recomputation under section 147 of the Act,

(b) issuance of notice under section 148 of the Act,

shall be through automated allocation, in accordance with risk management strategy formulated by the Board as referred to in section 148 of the Act for issuance of notice, and in a faceless manner, to the extent provided in section 144B of the Act with reference to making assessment or reassessment of total income or loss of assessee.

[Notification No. 18/2022/F. No. 370142/16/2022-TPL(Part1)]

SHEFALI SINGH, Under Secy.

12. Having heard the learned counsel for the petitioner and Mr. Mistry, the learned amicus, it is clear to us that although the objection of Ms. Goel at the first blush appeared to be attractive, when we first heard the matter on earlier occasion, however on a deeper scrutiny, such objection needs to fail. Ms Goel's contention that the category of cases as notified under order(s) dated 31 March, 2021 and 6 September, 2021 issued under section 119 of the Act providing for exclusion of cases assigned to the central and international charges from the applicability of Section 144B of the Act is concerned, certainly cannot be accepted to be the correct position in law.

13. Such contention of Ms Goel needs to fail for more than one

reason. **Firstly**, the order dated 31 March, 2021 issued under sub-section (2) of Section 144B of I.T. Act and order dated 6 September, 2021 issued under section 119 of the Act apply only in respect of "assessment orders to be passed, as clearly seen from the content of both such orders, which we have extracted hereinabove; **Secondly**, the scheme notified under section 151A under notification dated 29 March, 2022 applying the procedure of faceless mechanism to the proceedings under Section 148A and Section 148 is neither subject to the applicability of the prior order dated 31 March, 2021 read with 6 September, 2021 nor is it explicit so as to include the applicability of the said orders to the scheme as notified under section 151A; **Thirdly,** it would be doing violence to the language of the notification/scheme dated 29 March, 2022 to read into such notification what has not been expressly provided for and/or something which is kept outside the purview of the said notification, namely, the orders dated 31 March, 2021 and 6 September, 2021. It would be uncalled for as also not appropriate for the Court to read into the scheme dated 29 March, 2022, something which is not included. It cannot be said that the Central Government was not aware as to what was provided for in the orders dated 31 March, 2021 and 6 September, 2021 so as to not include the same under the scheme dated 29 March, 2022. It would thus be not correct, that the Court nonetheless reads into the scheme dated 29 March, 2022 the applicability of orders dated 31 March, 2021 and 6 September,

2021. In fact such approach would also be contrary to the mandate of Section 151A and to the scheme framed thereunder.

14. Thus, accepting Ms Goel's contention to read into the scheme as contained in the notification dated 29 March 2022, the applicability of the order dated 31 March, 2021 and 6 September, 2021 would in fact amount to not only rewriting such scheme issued by the Central Government but reading something into the provisions of section 151A which the legislature itself has not provided for. Section 151A and the Scheme notified below it stand independent under the notification dated 31 March 2022. Further, as rightly pointed out by Mr. Mistry, Section 151A is not subject to the other provisions of the Act when it empowers that the Central Government to make a scheme in the context of section 147 or for issuance of notice under section 148A and for conducting a prior enquiry by issuance of a show-cause notice or passing order under section 148A of the Act. The provisions is intended with an object of achieving efficiency, transparency and accountability *inter alia* by eliminating the interface between the income tax authority, optimizing utilization of the resources through economies of scale and functional specialization, and by introducing a team based assessment, reassessment, recomputation or issuance or sanction of notice with dynamic jurisdiction, as set out in clauses (a), (b) and (c) of sub-section 151A of the Act.

15. Thus, on a bare reading of section 151A as it stands, read with the scheme notified thereunder, we are of the clear opinion that the observations as contained in Paragraphs 10 and 11 of our decision in ***CapitalG LP*** do not require any reconsideration.

16. In the above context, Mr. Mistry has also drawn our attention to the decision of the Division Bench of the High Court of Telangana in ***Sri Venkataramana Reddy Patloola Vs. Deputy Commissioner of Income Tax, Circle 1(1), Hyderabad & Ors.***[3] to contend that such decision fortifies the view taken by us in **CapitalG LP** (supra) to submit that such decision takes a similar view, when an identical issue had fallen for consideration of the Division Bench of the High Court of Telangana, namely, whether the show-cause notice issued under section 148 of the Act in matters relating to international taxation charges are exempted to follow the procedure of faceless proceedings. In an elaborate judgment, their Lordships considering the provisions of section 151A as also the Notification dated 6 September, 2021 and the scheme notified by the Central Government under Notification dated 29 March, 2022 have held that only the actual assessment or reassessment would be laid in a face to face mode while the selection of cases and issue of notices could be in the faceless mode.

17. We have thus reached a considered conclusion that the mandatory

3 2024 SCC OnLine TS 1792

faceless procedure for issuance of notice under section 148 of the Act falling within the purview of the scheme notified by the Central Government dated 29 March, 2022 would not exclude the Central charges and International taxation charges from the application of the faceless mechanism as notified under section 144B read with section 151A of the Act.

18. The result of the above discussion is to the effect that this Court not only in Hexaware and thereafter in ***CapitalG LP*** but also the Division Bench of the High Court of Telangana in ***Sri Venkataramana Reddy Patloola*** *(supra)*, to have consistently held that in respect of central charges and international taxation charges, the proceedings under Section 148A read with Section 148 of the Act would be required to be held in a faceless manner, applying the provisions of section 144B and as effected under the provisions of section 151A read with scheme notified by the Central Government vide a Notification dated 29 March, 2022. We accordingly reject the contentions as urged by the revenue that the present case would fall outside the applicability of the said provisions and the scheme.

19. Now coming to the facts of the case, as the notices were issued by the JAO certainly they fall outside the purview of the faceless mechanism and on that count as held in the decision of ***Hexaware,*** the same would be required to be held to be illegal and without jurisdiction. We may also

observe that the proceedings would also stand covered by the decision of this Court in *Kairos Properties Pvt. Ltd. vs. Assistant Commissioner of Income-tax and Ors.*[4] ("***Kairos Properties***"), in which the Court has held the scheme to be applicable to the procedure to be adopted under section 148A of the Act as well.

20. In these circumstances, the Petition needs to be succeeded. It is accordingly allowed in terms of prayer clause (a), which reads thus:-

> "a) that this Hon'ble Court be pleased to issue a Writ of Certiorari or Writ in the nature of Certiorari or any other appropriate Writ, order or Direction under Article 226 of the Constitution of India calling for the records of the Petitioner's case and, after going through the same and examining the question of legality and validity thereof, be pleased to quash and set aside the impugned notice dated 31 March 2024 (Exhibit "D"), the impugned order dated 19 April 2024 (Exhibit "F") and the impugned reassessment notice dated 19 April 2024 (Exhibit "G") pertaining to the assessment year 2017-18;"

21. We express our gratitude to Mr. Mistry for his valuable assistance on the concerns as raised by us in our order dated 14 August, 2024.

22. Rule is made absolute in the aforesaid terms. No costs.

[SOMASEKHAR SUNDARESAN, J.] [G. S. KULKARNI, J.]

4 Writ Petition (L) No. 22686 of 2024 dated 05.08.2024