



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Writ Petition No. 21550/2025

Darshan Dhankani S/o Shri Sanjay Dhankani, Aged About 30 Years, 577, 11Th C Road, Sardarpura, Jodhpur, Rajasthan - 342003.

-----Petitioner

Versus

1. Principal Commissioner Of Income Tax (Central) Jaipur, 4Th Floor, Jeevan Nidhi - 2, Bhawani Singh Road, Ambedkar Circle, Jaipur 302005
2. Principal Chief Commissioner Of Income Tax (National Faceless Assessment Centre), 4Th Floor, Mayur Bhawan, Connaught Circus, New Delhi - 110001.
3. Central Board Of Direct Taxes Through Secretary, Cbdt Headquarters, North Block Department Of Revenue, New Delhi - 110001.
4. Deputy Commissioner Of Income Tax, Central Circle 1 Aayakar Bhawan, Jodhpur - 342001

-----Respondents

For Petitioner(s) : Mr. Gopal Sandu

For Respondent(s) : Mr. K.K. Bissa

**HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE ANUROOP SINGHI**

Order

06/11/2025

1. Learned counsel for the petitioner submits that petitioner is unhappy with notice dated 24th March 2024 issued under Section 148 and assessment order dated 21st March, 2025 passed under Section 147 of the Income Tax Act, 1961 (for short 'the Act').
2. Learned counsel further submits that apart from various grounds taken in the petition, one of the grounds is that notice has been issued by Jurisdictional Assessing Officer (JAO) and not



Faceless Assessing Officer (FAO). He also submits that this Court in ***Shree Cement Limited vs. Assistant Commissioner of Income-Tax & Others*** (D.B. Civil Writ Petition No.10540/2024, dated 05.08.2025, at Jaipur Bench) ***and Sharda Devi Chhajer vs. The Income Tax Officer & Anr.***, reported in **2025 SCCOnLine Raj3386**, following judgment of Bombay High Court in ***Hexaware Technologies Ltd. vs. Assistant Commissioner of Income-Tax, Circle 15(1)(2)***, reported in (2024) 162 tazmann.com 225 (Bombay), has held that such a notice issued by JAO will be invalid. Therefore any assessment order passed on an invalid notice will also be bad in law.

3. Mr. Bissa, learned counsel for the respondent submits that there is a Gujarat High Court judgment in the case of Talati and ***Talati LLP vs. Office of Assistant Commissioner of Income Tax, Circle 4(1)(1), Ahmedabad***, wherein Court considered validity of show cause notice issued under Section 148 of the Act and the proceedings initiated under Section 153A of the Act. He further submits that Gujarat High Court did not interfere with notice but directed assessee to file reply to notice.

4. This Court finds that facts of the Gujarat High Court case in ***Talati and Talati LLP*** (supra) are entirely different from the facts of present case.

In ***Talati and Talati LLP*** (supra), Gujarat High Court has held that notification dated 29th March 2022 (prescribing e-assessment scheme) does not cover a case where notice under Section 148 is issued by the JAO, the information received by him in the matter of search and seizure under Section 132 of the Act, 1961, or requisitioned under Section 132A.



5. The Gujarat High Court has relied on Explanation 2 to Section 148 (as it existed at the relevant time) to approve the contention of the Revenue that the concept of automated allocation, i.e. application of algorithm for randomized allocation of cases by using suitable technological tools including Artificial Intelligence and Machine Learning, as defined in Clause 2(1)(b) of the Scheme dated 29th March 2022, cannot be applied in a case of search and seizure under Section 132.

6. While upholding the said contention the Gujarat High Court was perhaps under an understanding that the FAO does not draw a satisfaction note before proceeding to issue a notice under Section 148 in search cases. The Gujarat High Court has taken cognizance of the contention that pre-requisite conditions before issuance of notice under Section 148, as provided in Explanation 2 of Section 148 would require human application of mind and cannot be fulfilled by algorithm under the Faceless Regime.

7. The decision of the Division Bench of the Bombay High Court in the case of **Hexaware Technologies Ltd.** (supra) has been distinguished as having been rendered in a case, which falls within the arena of Explanation 1 to Section 148 and not where Explanation 2 to Section 148 of the Income Tax Act' 1961, would be attracted.

8. It is pertinent to note that the Gujarat High Court was not made aware of the reasoning adopted by Bombay High Court in the case of **Abhin Anilkumar Shah vs. Income Tax Officer, International Tax Ward Circle-4(2)(1), Mumbai and Ors.** reported in **(2024) 468 ITR 350 (Bom)** where the orders dated 31st March 2021 and 06th September 2021 issued by the CBDT



creating exception for the assessment proceedings undertaken by the International taxation charges/Central Charges were subject matter of deliberation.

9. In **Abhin Anilkumar Shah** (supra) the Court held that said orders dated 31st March 2021 and 06th September 2021 issued by the CBDT only carve out exception in relation to the assessment proceedings. What has been done by order dated 06th September 2021 is to modify the order dated 31st 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 scheme as framed under section 151A and notified under the notification dated 29th March 2022 does not include the applicability, inclusion or even reference to the orders dated 31st March 2021 and 06th September 2021. It was further held that it would be doing violence to the language of the notification/scheme dated 29th 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 31st March 2021 and 06th September 2021. It would be uncalled for to read into the scheme dated 29th March 2022, something which is not included.

10. The Bombay High Court also relied upon the order passed by the Telangana High Court in the case of **Venkataramana Reddy**



Patloola Vs. Deputy Commissioner of Income Tax, Circle 1(1) and Ors. reported in (2024) 468 ITR 181.

11. The Revenue filed an SLP against another order passed by Telangana High Court based on the aforesaid Order in **Venkataramana Reddy Patloola** (supra). The said SLP came to be dismissed by the Hon'ble Supreme Court vide order dated 16th July 2025 in SLP (Civil) Diary No. 33956/2025 stating the following-

1. *"Delay condoned.*
2. *Exemption Application is allowed.*
3. *Having heard the learned counsel appearing for the petitioners- Revenue and having gone through the materials on record, we find no good reason to interfere with the impugned order passed by the High Court.*
3. *The Special Leave Petition is, accordingly, dismissed.*
4. *Pending applications, if any, shall also stand disposed of."*

12. Thus the judgment passed by the Gujarat High Court is not based on the reading of notification dated 29th March 2022 along with orders dated 31st March 2021/ 06th September 2021 but is based on the simple reading of Explanation 2 to Section 148 along with understanding that the pre-requisites for issuing notice under Section 148 in search cases cannot be met by the FAO. With due respect, we do not agree.

13. In these circumstances, notice dated 24th March 2024 issued under Section 148 and assessment order dated 21st March, 2025 passed under Section 147 of the Act are liable to be quashed and set aside.

14. At this stage, Mr. Bissa submits that in judgment of **Hexaware Technologies Ltd.** (supra), Revenue has preferred a



Special Leave Petition and notice has been issued. Counsel states that in view of the law as it stands today, Court may grant the prayer of petitioner but in case the Apex Court interferes with judgment in **Hexaware Technologies Ltd.** (supra), **Sharda Devi Chhajer** (supra) or **Shree Cement Limited** (supra), then Revenue should be given liberty to revive the notice issued under Section 148 of the Act.

15. In view of above, counsel for petitioner states that other grounds raised are not being pressed upon and they will be taken at appropriate stage, if required.

16. Therefore, keeping open all rights and contentions of parties, we quash and set aside notice dated 24th March 2024 issued under Section 148 and assessment order dated 21st March, 2025 passed under Section 147 of the Act with liberty as prayed.

17. In view of above, learned counsel for the petitioner undertakes to apply within two weeks to withdraw the appeal already filed.

18. Undertaking accepted.

19. Petition disposed.

20. Consequently, all pending applications, if any, also stand disposed.

(ANUROOP SINGHI),J

(DR. PUSHPENDRA SINGH BHATI),J

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