IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

(910) WRIT PETITION NO. 3416 OF 2023

Deepak Rajaram Kukreja ….Petitioner

V/s.
Assistant Commissioner of Income Tax
Circle - 1 and Ors. …Respondents

Mr. Dharan Gandhi for Petitioner.
Ms. Samiksha Kanani i/b Mr. Ajeet Manwani for Respondents-Revenue.

AND
(912) WRIT PETITION NO. 13932 OF 2023

Poorva Shah ….Petitioner

V/s.
Income Tax Officer, Ward 7(1),
Pune and Ors. …Respondents

Mr. Sham Walve a/w Mr. Sameer Dalal for Petitioner.
Mr. Suresh Kumar for Respondents-Revenue.

CORAM : K.R. SHRIRAM &
DR. NEELA GOKHALE, JJ.
DATED : 7th NOVEMBER 2023

P.C. :

1. Both these Petitions are relate to Assessment Year 2017-2018.

2. Counsels state that in both these Petitions the issue of improper sanction having been obtained has been raised among other grounds, in the petition as well as during the hearing. Counsels state that the issue of improper sanction has been decided by this Court in the case of ***Siemens***

Financial Services Private Limited v/s. Deputy Commissioner of Income Tax and Others[1], wherein the Court has held that for Assessment Year 2016-2017, the sanction should have been given under Section 151(ii) and not under Section 151(i) of the Income Tax Act, 1961 ("the Act") and consequently the sanction is invalid. The Court has stated that in view of the invalid sanction, the notice issued itself will be invalid and has to be quashed.

Counsels further state that the findings in *Siemens Financial Services Private Limited* (supra) will squarely apply to the Assessment Year 2017-2018 as well.

3. Therefore, all such notices issued for Assessment Year 2017-2018 are quashed and set aside.

4. We would also add, if the notice has to be quashed, if there is an assessment order passed subsequently, those assessment orders having been passed relying on an incorrect sanction, will also have to be quashed. Ordered accordingly.

5. In view of the above, all consequential notices/demands issued under Section 156 or 271 of the Act will also have to be quashed. Ordered accordingly.

1 (2023) 457 ITR 647 (Bom)

6. Both Petitions disposed.

(DR. NEELA GOKHALE, J.) **(K.R. SHRIRAM, J.)**