



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9507 OF 2023

Jagdish Ishwardas Nihalani

....Petitioner

V/s.

Assistant Commissioner of
Income Tax, Circle 1 & Ors.

....Respondents

Mr. Kumar Kale for petitioner.

Mr. Ajeet Manwani a/w. Ms. Samiksha Kanani for respondents.

CORAM : K. R. SHRIRAM &
KAMAL KHATA, JJ.

DATED : 29th SEPTEMBER 2023

PC. :

- 1 This petition relates to Assessment Year 2016-2017.
- 2 Counsels state that in this petition, the issue of improper sanction having been obtained has been raised among other grounds. Counsels further 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. Therefore, if the notice itself has to be

1. Writ Petition No.4888 of 2022 dated 25th August 2023

quashed, the assessment order passed following the notice relying on an incorrect sanction will also have to be quashed.

3 Counsels state that the findings in *Siemens Financial Services Private Limited* (Supra) should squarely apply to this petition as well on the issue of sanction.

4 Therefore, we hereby quash and set aside notice dated 28th June 2021 issued under Section 148, order dated 28th July 2022 issued under Section 148A(d), notice dated 28th July 2022 issued under Section 148 and consequential assessment order issued under Section 147 read with Section 144 read with Section 144B, notice of demand issued under Section 156 and notice issued under Section 274 read with Section 271(1) (c) of the Act all dated 31st May 2023.

5 Petition disposed.

(KAMAL KHATA, J.)

(K. R. SHRIRAM, J.)