IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14838 OF 2023

Amir Abdul Gafoor Sayed **...Petitioner**
Versus
Income Tax Officer, Ward 2, Panvel & Ors. **...Respondents**

Mr. Devendar Jain i/b Ms. Radha Halbe for Petitioner.
Mr. Ajeet Manwani a/w Ms. Samiksha Kanani for Respondents.

CORAM: K. R. SHRIRAM &
DR. NEELA GOKHALE, JJ.
DATED: 11th December 2023

PC:-

1. This petition relates to Assessment Year 2017-2018.

2. Counsels state that in this petition 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. We would also add, if the notice has to be quashed, if

1. (2023) 457 ITR 647 (Bom.)

there is an assessment order passed subsequently, the assessment order having been passed relying on an incorrect sanction, will also have to be quashed. Ordered accordingly.

3. Counsels further state that the findings in *Siemens Financial Services Private Limited* (*supra*) will squarely apply to the Assessment Year 2017-2018 as well. Therefore, all such notices issued for Assessment Year 2017-2018, the assessment orders and the consequential orders are also quashed and set aside.

4. 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.

5. Petition disposed.

6. We clarify that all other grounds could be raised by the parties at appropriate stage in any other proceeding.

7. In view of disposal of petition, pending interim application, if any, also stands disposed of accordingly.

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

GITALAXMI KRISHNA KOTAWADEKAR

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