IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9954 OF 2022

Zentest Software Private Limited ….Petitioner

V/s.

Assistant Commissioner of Income Tax, Circle 12 and Anr. …Respondents

ALONGWITH
WRIT PETITION NO. 11183 OF 2022
ALONGWITH
WRIT PETITION NO. 11566 OF 2022
ALONGWITH
WRIT PETITION NO. 11860 OF 2022
ALONGWITH
WRIT PETITION NO. 11916 OF 2022
ALONGWITH
WRIT PETITION NO. 12314 OF 2022

Mr. Niraj Sheth i/b Mr. Atul K. Jasani for Petitioner in WP No.9954/2022.

Ms. Ritika Agarwal a/w Mr. Sandesh Salunkhe i/b Ace Legal for Petitioners in WP No. 11183/2022, WP No. 11566/2022, WP No. 11860/2022, WP No. 11916/2022 and WP No. 12314/2022.

Mr. Suresh Kumar for Respondents in WP No.9954/2022, WP No. 11183/2022, WP No. 11566/2022, WP No. 11860/2022, WP No. 11916/2022.

Mr. Akhileshwar Sharma for Respondent in WP No. 12314/2022.

CORAM : K.R. SHRIRAM &
NEELA GOKHALE, JJ.
DATED : 4th OCTOBER 2023

P.C. :

1. These are Petitions which relate to Assessment Year 2016-2017 or 2017-2018.

2. Counsels state that in all 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. 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 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.

3. 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.

4. All Petitions disposed.

5. Counsels further state that the findings in *Siemens Financial*

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

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.

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 Petitions, pending interim application, if any, also stands disposed of accordingly

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