IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

(912) WRIT PETITION NO.5165 OF 2022

Avani Rasik Sontakke ….Petitioner

V/s.

Income Tax Officer, Ward 2 & Ors. ….Respondents

WITH
(914) WRIT PETITION NO.11870 OF 2022
WITH
(915) WRIT PETITION NO.12312 OF 2022
WITH
(936) WRIT PETITION (ST.)NO.17167 OF 2023

Mr. Riyaz Padvekar a/w. Mr. Tanzil Padvekar and Ms. Tejal Kharkar for petitioner in WP/5165/2022.
Ms. Ritika Agarwal a/w. Ms. Ayesha Ansari i/b. Acelegal for petitioner in WP/11870/2022 and WP/12312/2022.
Mr. Devendra Jain a/w. Ms. Radha Halbe and Mr. Ashwin Jain for petitioner in WP(ST)/17167/2023.
Mr. Suresh Kumar for respondents–revenue in WP/5165/2022, WP/11870/2022 and WP/12312/2022.
Mr. Manoj Shirsat for respondents-revenue in WP(ST)/17167/2023.

CORAM : K. R. SHRIRAM &
NEELA GOKHALE, JJ.
DATED : 17th 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/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 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 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 All Petitions disposed.

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

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

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

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