IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14805 OF 2022

Dombivli Nagari Sahakari Bank Ltd. ....Petitioner

V/s.

Income Tax Officer, Ward 3(1) & Ors. ....Respondents

Mr. Kumar Kale for petitioner.
Mr. Ajeet Manwani a/w. Ms. Samiksha Kanani for respondents – Revenue.

CORAM : K. R. SHRIRAM &
DR. NEELA GOKHALE, JJ.
DATED : 18th DECEMBER 2023

P.C. :

1 This petition relates to Assessment Year 2016-2017. Counsel states that in this petition the issue of improper sanction having been obtained has been raised amongst other grounds. Counsel state that the issue of improper sanction has been decided by this court in ***Siemens Financial Services Private Limited Vs. Deputy Commissioner of Income Tax & Ors.***[1] wherein the court has held that for A.Y. 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). 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.

1 (2023) 457 ITR 647 (BOM)

2 Counsel further state that the findings in *Siemens Financial Services Pvt Ltd.* (Supra) would squarely apply to this petition as well on the issue of sanction.

3 Therefore, impugned notice dated 4th May 2021 issued under Section 148 of the Act (now deemed to be notice under Section 148A(b), impugned order dated 26th July 2022 passed under Section 148A(d) of the Act and impugned notice dated 26th July 2022 issued under Section 148 of the Act are hereby quashed and set aside.

4 In view of the above, all consequential notices 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.

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