IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.593 OF 2023

Sainath Shankar Mhatre .. Petitioner

v/s.

Income Tax Officer Ward-3(2)

Kalyan& Ors. .. Respondents

WITH

WRIT PETITION NO.459 OF 2023

Windsor Machines Ltd. .. Petitioner

v/s.

Deputy Commissioner of Income

Tax Central Circle 1 & Ors. .. Respondents

WITH

WRIT PETITION NO.577 OF 2023

Windsor Machines Ltd. .. Petitioner

v/s.

Deputy Commissioner of Income

Tax Central Circle 1 & Ors .. Respondents

WITH

WRIT PETITION NO.576 OF 2023

Windsor Machines Ltd. .. Petitioner

v/s.

Deputy Commissioner of Income

Tax Central Circle 1 & Ors .. Respondents

WITH

WRIT PETITION NO.462 OF 2023

Ganesh Shankar Mhatre .. Petitioner

v/s.

Income Tax Officer Ward-3(2),

Kalyan & Ors. .. Respondents

…

Ms. Aanchal Shah for the Petitioner.

Mr. Ajeet Manwani a/w Ms Samiksha Kanai for Respondents.

…

CORAM : K. R. SHRIRAM &
KAMAL KHATA, JJ.
DATED : 26TH SEPTEMBER 2023.

P.C. :

WRIT PETITION NO.577 OF 2023

1. This Petition relates to Assessment Year 2016-2017.

2. Counsels state that in all these Petitions the issue of improper sanction having been obtained has been raised among other grounds. 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 consequentially the sanction is invalid. The Court has stated that in view of the invalid sanction, the notice issued itself will be invalid have to be quashed. We would also add, if the notice has to be quashed even where there is an assessment order passed subsequently, those assessment orders having been passed

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

relying on an incorrect sanction, will also have to be quashed. Ordered accordingly.

3. In view of the above, all consequential notice/demands issued under Section 156 or 271 of the Act will also have to be quashed. Ordered accordingly.

4. Petition disposed.

WRIT PETITION NO.576 OF 2023

1. This petition relates to A.Y. 2017-2018. 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.***[2] 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. 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.

2. Counsel state that the findings in Siemens Financial Services Pvt Ltd. (Supra) should squarely apply to this petition as well on the issue of sanction. Therefore, impugned notice dated 25th July 2022 is hereby

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

quashed and set aside. Any consequential orders passed shall also stand quashed and set aside.

3. Petition disposed.

<u>WRIT PETITION NO.593 OF 2023</u>
WITH
<u>WRIT PETITION NO.459 OF 2023</u>
WITH
<u>WRIT PETITION NO.462 OF 2023</u>

1. Stand over to 30th October 2023.

2. Ad-interim relief granted earlier to continue until the next date.

(KAMAL KHATA, J.) **(K.R. SHRIRAM, J.)**