IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15662 OF 2023

Wadhwa Buildcon LLP through its Partner ….Petitioner

V/s.

The Assistant Commissioner of Income Tax
Department and Ors. ....Respondents

Mr. Sumedh S. Modak 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 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.***[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

1. (2023) 457 ITR 647 (BOM)

sanction, will also have to be quashed. Ordered accordingly.

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 6th May 2021 issued under Section 148 of the Act and impugned notice dated 27th May 2022 issued under Section 148A(b) of the Act and impugned show cause notice dated 26th May 2023 issued under Section 270A of the Act are hereby quashed and set aside.

4 In view of the above, all consequential notices/demands issued under Section 156 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.

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