IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

(901) WRIT PETITION NO. 4728 OF 2022

Kirti Manilal Shah ….Petitioner

V/s.

Assistant Commissioner of Income Tax, Circle - 16(2) and Ors. …Respondents

ALONGWITH
(902) WRIT PETITION NO. 5084 OF 2022
ALONGWITH
(903) WRIT PETITION (L) NO. 37631 OF 2022
ALONGWITH
(904) WRIT PETITION NO. 312 OF 2023
ALONGWITH
(905) WRIT PETITION (L) NO. 1684 OF 2023
ALONGWITH
(906) WRIT PETITION NO. 2091 OF 2023
ALONGWITH
(907) WRIT PETITION (L) NO. 2170 OF 2023
ALONGWITH
(908) WRIT PETITION NO. 2288 OF 2023
ALONGWITH
(909) WRIT PETITION NO. 2744 OF 2023
ALONGWITH
(911) WRIT PETITION (L) NO. 5843 OF 2023
ALONGWITH
(913) WRIT PETITION (L) NO. 17657 OF 2023

Mr. Dharan V. Gandhi a/w Ms. Aanchal Vyas and Mr. Darshan Gajra for Petitioner in WP/4728/2022, WP/5084/2022, WPL/37631/2022, WPL/2170/2023, WP/2288/2023, WP/2744/2023 and WPL/17657/2023.

Mr. Sukhsagar Syal i/b Mr. Govind Javeri for Petitioner in WP/312/2023.

Mr.Manish Mirpuri a/w Ms. Heena Khan for Petitioner/s in WPL/1684/2023 and WPL/5843/2023.

Mr. Bhavesh Parmar a/w Ms. Reshma Nair and Mr. Vivekanand Akshali i/b Mr. Dev Shukla for Petitioner in WP/2091/2023.

Mr. Manoj Shirsat for Respondents-Revenue in WP/4728/2022.

Mr. Akhileshwar Sharma a/w Ms. Shilpa Goel for Respondents-Revenue in WP/5084/2022, WP/312/2023, WP/2091/2023 and WP/2744/2023.

Ms. Sushma Nagaraj a/w Ms. Shreya Singhi for Respondents-Revenue in WPL/37631/2022.

Mr. Siddharth Chandrashekhar for Respondents-Revenue in WPL/1684/2023 and WPL/5843/2023.

Mr. N. C. Mohanty for Respondents-Revenue in WPL/2170/2023.

Mr. Suresh Kumar for Respondents in WP/2288/2023.

Mr. Subir Kumar a/w Ms. Sruti Kalyanikar for Respondents-Revenue in WPL/17657/2023.

CORAM : K.R. SHRIRAM &
DR. NEELA GOKHALE, JJ.
DATED : 7th NOVEMBER 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

1 (2023) 457 ITR 647 (Bom)

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 and the assessment 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.

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

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

Purti Parab