IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 670 OF 2024

Amit Gas Agency **...Petitioner**
Versus
Income Tax Officer Ward 5, Panvel & Ors. **...Respondents**

Mr. Tanzil R. Padvekar with Ms. Tejal P. Kharkar, for Petitioner.
Ms. Samiksha Kanani, with Ms. Prasanna Pawar, for Respondents-Revenue.

CORAM: K. R. SHRIRAM &
DR. NEELA GOKHALE, JJ.
DATED: 16th January 2024

PC:-

1 The Petition relates to Assessment Year 2016-2017.

2 Counsels state that in this Petition 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

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

quashed. We would also add, if the notice has to be quashed, if there is an assessment order passed subsequently, that assessment order 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 this petition. Therefore, all consequential notices, the assessment order and the consequential orders are quashed and set aside.

4 Petition disposed.

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

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

7. Mr. Padvekar states that after the petition was filed, Respondent has issued a communication dated 10th January 2024 releasing the bank account which was attached earlier. A copy of the communication is taken on record and marked ‘X’ for identification.

8. In view of above, Ms. Kanani states that no demand for AY 2016-17 would survive.

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

Gaikwad RD