IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2711 OF 2024

Kavita Vikram Dave **...Petitioner**
Versus
Income Tax Officer, Ward-28(2)(1), Mumbai & Ors. **...Respondents**

Mr. Jitendra Singh for Petitioner.
Mr. Arjun Gupta for Respondent Nos. 1 & 2.

CORAM: K. R. SHRIRAM &
DR. NEELA GOKHALE, JJ.
DATED: 27th February 2024

PC:-

1. This petition relates to Assessment Year 2017-2018.

2. Counsel states 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. Counsel states that the issue of improper sanction has been decided by this Court in the case of ***Siemens Financial Services Private Limited Vs. 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**"). Consequently, the sanction is invalid. The Court has stated that in view of the invalid sanction, the

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

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, that assessment order having been passed relying on an incorrect sanction, will also have to be quashed.

3. Counsel further states that the findings in *Siemens Financial Services Private Limited* (*supra*) would squarely apply to this petition as well on the issue of sanction. Therefore, all such notices issued for Assessment Year 2017-2018 and orders impugned in this petition are quashed and set aside. All consequential notices, assessment order and the consequential orders, if any, are also hereby 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.

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

GITALAXMI KRISHNA KOTAWADEKAR Digitally signed by GITALAXMI KRISHNA KOTAWADEKAR Date: 2024.02.28 15:21:05 +0545

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