IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2988 OF 2023

Aakash Investments ....Petitioner

V/s.

Income Tax Officer, Ward 7(1), Pune & Ors ....Respondents

Mr. Sagar Tilak a/w Ms Payal Rathod i/b Mr. Sachin Hande for Petitioner.
Mr. Suresh Kumar for Respondent

CORAM : K. R. SHRIRAM &
Dr. NEELA GOKHALE, JJ.
DATED : 6th MARCH 2024

P.C. :

1 This petition relates to Assessment Year 2018-19.

2 Mr. Tilak for petitioner states this petition is covered by the order passed by this court in the case of ***Vodafone Idea Limited Vs. Deputy Commissioner of Income Tax, Circle 5(2)(1), Mumbai & Ors.***[1] Counsel for respondent agrees.

3 Petitioner is impugning a notices dated 21st March 2022 and 31st March 2022 issued under Section 148A(b) of the Income Tax Act, 1961 ("the Act"), the order dated 11th April 2022 passed under Section 148A(d) of the Act and the notice also dated 11th April 2022 issued under Section 148 of the Act. One of the grounds raised is that the sanction to pass the order under Section 148A(d)of the Act and issuance of notice under Section 148 of the Act is invalid in as much as the sanction has been

1 Writ Petition No.2768 of 2022 dated 6th February 2024

admittedly issued by the Principal Commissioner of Income Tax ("PCIT") and not by the Principal Chief Commissioner of Income Tax (PCCIT").

4 The impugned order and the impugned notice both dated 11th April 2022, state that the Authority that has accorded the sanction is the PCIT, Mumbai. The matter pertains to Assessment Year ("AY") 2018-19. Since the impugned order as well as the notice are both issued on 11th April 2022, both have been issued beyond a period of three years; therefore, the sanctioning authority has to be the PCCIT as provided under Section 151(ii)of the Act. The provisio to Section 151 has been inserted only with effect from 1st April 2023 and, therefore, shall not be applicable to the matter at hand.

5 In these circumstances, Mr. Tilak submits, as held by this Court in ***Siemens Financial Services Private Limited Vs. Deputy Commissioner of Income Tax & Ors.***[2] the sanction is invalid. Mr. Suresh Kumar agrees. Consequently, the impugned order and impugned notice, both dated 11th April 2022, issued under section 148A(d) and 148, respectively, of the Act are hereby quashed and set aside.

6 Petition disposed. No order as to costs. All rights and contentions are kept open.

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

2 (2023) 457 ITR 647 (Bom)