

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2983 OF 2023

Aashish Niranjana Shah

....Petitioner

V/s.

Assistant Commissioner of Income Tax & Ors

....Respondents

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

Ms Samiksha Kanani for Respondent-Revenue.

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

PC. :

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 notice dated 22nd March 2022 issued under
Section 148A(b) of the Income Tax Act, 1961 ("the Act"), the order dated
5th April 2022 passed under Section 148A(d) of the Act and the notice also
dated 5th 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

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

Act is invalid in as much as the sanction has been 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 5th 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 5th 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 proviso 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. Ms Kanani agrees. Consequently, the impugned order and impugned notice, both dated 5th 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)