IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4741 OF 2024

Panabyte Technologies Limited ….Petitioner

V/s.

Deputy Commissioner of Income Tax
Central Circle 6(4) Mumbai & Ors. ....Respondents

Mr. Devendra Jain i/b Ms Radha Halbe for Petitioner.
Ms Swapana Gokhale for Respondents-Revenue

CORAM : K. R. SHRIRAM &
Dr. NEELA GOKHALE, JJ.
DATED : 1st APRIL 2024

P.C. :

1 Ms Gokhale undertakes to file vakalatnama within one week from today. Statement accepted.

2 This petition relates to Assessment Year 2018-19.

3 Mr. Jain 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.

4 Petitioner is impugning a notice dated 14th March 2022 issued under Section 148A(b) of the Income Tax Act, 1961 ("the Act"), the order dated

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

Meera Jadhav:- This order has been corrected pursuant to the speaking to the minutes of order dated 10th April 2024.

7th April 2022 passed under Section 148A(d) of the Act and the notice also dated 7th 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 admittedly issued by the Principal Commissioner of Income Tax ("PCIT") and not by the Principal Chief Commissioner of Income Tax (PCCIT").

5 The impugned order and the impugned notice both dated 7th 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 7th 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.

6 In these circumstances, Mr. Jain 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 Gokhale agrees. Consequently, the impugned order and impugned notice, both dated 7th April 2022, issued under section 148A(d) and 148, respectively, of the Act are hereby quashed and set aside. Consequential assessment orders, demand orders and penalty notices, etc. are also quashed and set aside.

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2 (2023) 457 ITR 647 (Bom)

Meera Jadhav:- This order has been corrected pursuant to the speaking to the minutes of order dated 10th April 2024.

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

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

Meera Jadhav:- This order has been corrected pursuant to the speaking to the minutes of order dated 10th April 2024.