IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5928 OF 2023

Shatrunjay Investments **...Petitioner**
Versus
Income Tax Officer, Ward-3(1), Kalyan & Ors. **...Respondents**

Mr. Dharan Gandhi for Petitioner.
Mr. Ajeet Manwani a/w Ms. Samiksha Kanani for Respondents.

CORAM: K. R. SHRIRAM &
DR. NEELA GOKHALE, JJ.
DATED: 20th February 2024

PC:-

1. This 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. Counsels further 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**"). Consequently, the sanction is invalid. The Court has stated that in view of the invalid sanction, the notice issued itself will be invalid

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

and has to be quashed. We would also add, if the notice has to be quashed, if there is an assessment order passed subsequently, the 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*) would squarely apply to this petition as well on the issue of sanction.

4. Therefore, all such notices issued for Assessment Year 2016-2017, the assessment orders and the consequential orders are also quashed and set aside.

5. Petition disposed.

6. 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

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