IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10597 OF 2022

Atal Realtech Limited **…Petitioner**
Versus
Income Tax Officer, Ward-1(1), Nashik & Ors. **…Respondents**

Mrs. Madhuri Gamre i/b Ms. Pritesh Burad Associates for the Petitioner.
Mr. Suresh Kumar for the Respondents-Revenue.

CORAM: K. R. SHRIRAM &
DR. NEELA GOKHALE, JJ.
DATED: 22nd January 2024

PC:-

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

2. The issue of improper sanction having been obtained has been raised among other grounds, in the petition as well as during the hearing. Counsels 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**") and consequently the sanction is invalid. The Court has stated that in view of the invalid sanction, the notice issued itself will be invalid and has to be quashed. We would also add, if the notice has to be

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

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 the Assessment Year 2017-2018 as well on the issue of sanction. Therefore, all such notices issued for Assessment Year 2017-2018, the assessment orders and the consequential orders are also 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.)**

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