IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10841 OF 2022

Rameshwar Dayal K. Sharma **...Petitioner**
Versus
Union of India through The Secretary & Anr. **...Respondents**

Mr. Sham Walve a/w Ms. Sweta Vijay Upadhyay i/b India Law Alliance for Petitioner.
Mr. Akhileshwar Sharma for Respondents-Revenue.

CORAM: K. R. SHRIRAM &
DR. NEELA GOKHALE, JJ.
DATED: 5th March 2024

PC:-

1. Mr. Walve tenders draft amendment, which is taken on record and marked "**X**" for identification. Leave to amend as per the draft tendered is granted. Mr. Walve is undertaking to serve copy of an amended petition to other side.

2. Amendment to be carried out during the course of today and copy of an amended petition shall also be served on Mr. Sharma during the course of today.

3. At this stage Counsels state that this petition relates to Assessment Year 2017-2018 and the issue of improper sanction having been obtained has been raised among other grounds, in the petition as well as during the hearing. 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. Deputy***

Commissioner of Income Tax and Ors.[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 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.

4. Counsels further state that the findings in *Siemens Financial Services Private Limited* (*supra*) will squarely apply to this petition. Therefore, all notices and orders impugned in this petition are quashed and set aside. All consequential notices issued for Assessment Year 2017-2018, the assessment orders and the consequential orders, if any, are also hereby 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 Digitally signed by GITALAXMI KRISHNA KOTAWADEKAR Date: 2024.03.06 14:46:44 +0545

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