

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12146 OF 2022

Shri. Aashish Niranjana Shah

...Petitioner

Versus

The Assistant Commissioner of Income Tax,
Circle-7, Pune & Ors.

...Respondents

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

Mr. Suresh Kumar for Respondents-Revenue.

**CORAM: K. R. SHRIRAM &
DR. NEELA GOKHALE, JJ.**

DATED: 27th 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. It was raised during the hearing as well. 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”). Consequently, the sanction is

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

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 said assessment order having been passed relying on an incorrect sanction, will also have to be quashed.

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 order 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.)

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