IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 695 OF 2024

Salil Shripad Mehendale **…Petitioner**
Versus
Income Tax Officer, Ward 10(1), Pune & Ors. **…Respondent**

Mr. Sham Walve, with Mr. Sanket Bora, i/b. SPCM Legal, for Petitioner.
Mr. Suresh Kumar, for Respondents-Revenue.

CORAM: K. R. SHRIRAM &
DR. NEELA GOKHALE, JJ.
DATED: 9th May 2024

PC:-

1. This petition relates to Assessment Year 2018-2019.

2. Petitioner is impugning a notice issued under Section 148 of the Income Tax Act, 1961 ("**the Act**") and the order passed under Section 148A(d) of the Act, both dated 6th April 2022 and the notice dated 23rd March 2022 issued under Section 148A(b) 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 inasmuch 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**").

3. Counsel for Petitioner state this petition is covered by the order

dated 6th February 2024 passed by this Court in the case of ***Vodafone Idea Limited v. Deputy Commissioner of Income Tax, Circle-5(2)(1), Mumbai & Ors.***[1]. Counsel for Respondents agrees.

4. The impugned order and the impugned notice both dated 6th April 2022 state that the Authority that has accorded the sanction is the PCIT, Pune-3. The matter pertains to Assessment Year ("**AY**") 2018-2019 and since the impugned order as well as the notice are issued on 6th 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 proviso to Section 151 of the Act has been inserted only with effect from 1st April 2023 and, therefore, shall not be applicable to the matter at hand.

5. In the circumstances, as held by this Court in ***Siemens Financial Services Private Limited Vs. Deputy Commissioner of Income Tax & Ors.***[2], the sanction is invalid and consequently, the impugned order and impugned notice both dated 6th April 2022 under Sections 148A(d) and 148 of the Act are hereby quashed and set aside.

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

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

1. Writ Petition No. 2768 of 2022.
2. (2023) 457 ITR 647 (Bom.).

RAJU DATTATRAYA GAIKWAD Digitally signed by RAJU DATTATRAYA GAIKWAD Date: 2024.05.13 15:56:23 +0530

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