IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11403 OF 2024

Chhaya Mohan Kale ...Petitioner
Vs.
Income Tax Officer Ward 5, Panvel & Ors. ...Respondents

Mr. Sham Walve with Mr. Sameer Dalal and Mr. Bhavik Chheda for Petitioner.
Mr. Akhileshwar Sharma for Respondents.

CORAM: G. S. KULKARNI & SOMASEKHAR SUNDARESAN, JJ.
DATE: 30 SEPTEMBER 2024.

P.C.

1. Rule. Rule made returnable forthwith. Learned Counsel for the Respondents waives service. By consent of the parties, heard finally.

2. Reply affidavit is taken on record.

3. This Writ Petition challenges a Show Cause Notice dated 07 April 2022 issued under Section 148 of the Income Tax Act, 1961 ("***the Act***"), order dated 07 April 2022 passed u/s 148A(d) of the Act and the Assessment Order dated 22 March 2024 passed u/s 147 read with Section 144B of the Act. The assessment year in question is 2018-19.

4. The reassessment has been initiated after the expiry of three years from the relevant assessment year. Consequently, Mr. Walve, learned

counsel for the petitioner submits that this petition is squarely covered by the decision of the Division Bench of this Court in **Vodafone Idea Limited vs. Deputy Commissioner of Income-Tax, Circle-5(2)(1) & Ors.** (Writ Petition No. 2766 of 2022).

5. Mr. Suresh Kumar, learned counsel for the revenue does not agree that the matter would be squarely covered by the decision of the Division Bench of this Court in **Vodafone Idea Limited** (supra), in as much as the sanction has been admittedly issued by the Principal Commissioner of Income Tax and not by the Principal Chief Commissioner of Income Tax and other relevant authorities as set out in Section 151(ii) of the Act. It may be noted that the assessment year in **Vodafone Idea Limited** (supra), is the very same assessment year i.e. 2018-19. The following extract from the decision of **Vodafone Idea Limited** (supra) is relevant:-

> "3. In the impugned order dated 5th April 2022 and the impugned notice dated 6th April 2022, both state that the Authority that has accorded the sanction is the PCIT, Mumbai 5. The matter pertains to Assessment Year ("AY") 2018-19 and since the impugned order as well as the notice are issued on 5th April 2022 and 6th April 2022, respectively, 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 has been inserted only with effect from 1st April 2023 and, therefore, shall not be applicable to the matter at hand.
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> 4. In this circumstances, as held by this Court in Siemens Financial Services Private Limited Vs. Deputy Commissioner of Income Tax & Ors., 1 the sanction is invalid and consequently, the impugned order dated 5th April 2022 and impugned notice dated 6th April 2022 under section 148A(d) and 148, respectively, of the Act are hereby quashed and set aside."

6. In the result, this petition deserves to be allowed. It is accordingly allowed in terms of prayer clause (a). The notice under Section 148 of the Act and all consequential actions are hereby quashed and set aside. No costs.

(SOMASEKHAR SUNDARESAN, J.) **(G. S. KULKARNI , J.)**