IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3565 OF 2022

Kishin Shewaram Loungani through R. Kishin And Co. ...**Petitioner**

Versus

The Income Tax Officer & Anr. ...**Respondents**

WITH
WRIT PETITION NOS. 3671, 3730, 3762, 3780, 4051, 4268, 4498, 4593, 5071 & 5275 OF 2022;

WRIT PETITION (L) NOS. 33613, 34175, 34593, 35916 & 41327 OF 2022;

WRIT PETITION NOS. 370 & 1089 OF 2023;
AND
WRIT PETITION (L) NOS. 4118 & 12205 OF 2023

Mr. Percy Pardiwalla, Senior Adovcate with Mr. Sukhsagar Syal i/b Bachubhai Munim & Co. for Petitioner in WP/4498/2022.
Mr. Percy Pardiwalla, Senior Advocate with Mr. Jeet Kamdar and Mr. Sameer Dalal for Petitioners in WP/5071/2022 & WP/5275/2022.
Mr. Prakash Shah with Mr. Yash Prakash i/b PDS Legal for Petitioner in WP/3565/2022.
Mr. Devendra H. Jain i/b Ms. Radha Halbe for Petitioner in WP/3671/2022.
Mr. B. V. Jhaveri with Ms. Bhargavi Raval for Petitioners in WP/3730/2022 & WP/3762/2022.
Mr. Pushpvijay Kanoji with Mr. Abhinav Mathur i/b Mr. Uttam S Rane for Petitioner in WP/3780/2022.
Mr. Rajath Bharadwaj i/b Economic Laws Practice for Petitioner in WP/4593/2022.
Mr. Sham Walve with Mr. Sandeep Mishra & Mr. Vijay Tiwari for Petitioners in WPL/33613/2022 & WPL/34175/2022.
Mr. Nishit M. Gandhi for Petitioners in WPL/35916/2022.
Mr. Jitendra Singh for Petitioner in WPL/41327/2022.
Mr. Upendra Lokegaonkhar i/b Mint and Confreres for Petitioner in WP/370/2023.

Mr. Dharmesh Shah i/b Mr. Dhaval Shah for Petitioner in WP/1089/2023.
Mr. Parth Jayant Bhatt with Mr. Mohd. Zain Khan & Mr. Ashraf Kapoor for Petitioner in WPL/12205/2023.
Mr. Akhileshwar Sharma with Mr. Suresh Kumar for Respondents-Revenue.

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

PC :

1. Theses petitions relate to Assessment Year 2016-2017 or 2017-2018.

2. Counsels state that the issue of improper sanction having been obtained has been raised among other grounds, in these petitions 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

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

passed subsequently, the 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*) will squarely apply to these petitions. Therefore, all notices and orders impugned in these petitions are quashed and set aside. All consequential notices issued for Assessment Year 2016-2017 or 2017-2018, the assessment orders and the consequential orders, if any, are also hereby quashed and set aside.

4. Petitions disposed.

5. We clarify that all other grounds could be raised by the parties at appropriate stage in any other proceeding.

6. In view of disposal of petitions, pending interim application, if any, also stands disposed of accordingly.

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

Gitalaxmi

Note: This order is modified by a Speaking to Minutes Order dated 15th March 2024.