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

WRIT PETITION NO. 540 OF 2024

Vinay Anant Kshirsagar ….Petitioner

V/s.

Income Tax Officer, Ward 19(3)(1),
Mumbai and Ors. ….Respondents

Mr. Devendra H. Jain i/b Ms. Namita Chandra for Petitioner.
Mr. Siddharth Chandrashekhar for Respondents – Revenue.

CORAM : K.R. SHRIRAM &
DR. NEELA GOKHALE, JJ.
DATED : 23rd APRIL 2024

P.C. :

1. Mentioned out of turn at 10.30 a.m.

2. This petition relates to Assessment Year 2018-19.

3. Mr. Jain for petitioner states that this petition is covered by the order passed by this Court in the case of ***Vodafone Idea Limited V/s. Deputy Commissioner of Income Tax, Circle 5(2)(1), Mumbai & Ors.***[1]. Mr.Chandrashekhar for respondents agrees.

4. Petitioner is impugning a notice dated 30th March 2022 issued under Section 148A(b) of the Income Tax Act, 1961 ("the Act"), order dated 30th April 2022 passed under Section 148A(d) of the Act and notice also

1 Writ Petition No.2768 of 2022 dated 6.2.2024

dated 30th April 2022 issued under Section 148 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 in as much 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").

5. The impugned order and the impugned notice both dated 30th April 2022 state that the Authority that has accorded the sanction is the PCIT, Mumbai. The matter pertains to Assessment Year ("AY") 2018-19. Since the impugned order as well as the notice are both issued on 30th 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 has been inserted only with effect from 1st April 2023 and, therefore, shall not be applicable to the matter at hand.

6. In these circumstances, Mr. Jain submits that as held by this Court in ***Siemens Financial Services Private Limited V/s. Deputy Commissioner of Income Tax & Ors.,***[2] the sanction is invalid. Mr.Chandrashekhar agrees. Consequently, the impugned order and impugned notice, both dated 30th April 2022, issued under section 148A(d)

2 (2023) 457 ITR 647 (Bom)

and 148, respectively, of the Act are hereby quashed and set aside. Consequential assessment orders, demand orders and penalty notices, etc. are also quashed and set aside.

7. Petition disposed. No order as to costs.

8. All rights and contentions are kept open.

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