IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.792 OF 2024

Akash Dasharath Kadu **…Petitioner**
Versus
Income Tax Officer, Ward 42(2)(3), Mumbai & Ors. **...Respondents**

Mr. Devendra H. Jain, with Ms. Radha Halbe, for Petitioner.
Mr. Devendra Harnesha, for Respondents-Revenue.

CORAM: K. R. SHRIRAM &
DR.NEELA GOKHALE, JJ.
DATED: 22nd 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, in the petition as well as during the hearing. Counsels state that the issue of improper sanction has been decided by this court in the case of ***Siemens Financial Services Private Limited Vs. Deputy Commissioner of Income Tax & 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

1. (2023) 457 ITR 647 (BOM)

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, that 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 this petition. Therefore, all notices and orders impugned in this petition are quashed and set aside. All consequential notices, assessment order and the consequential orders, if any, are also hereby quashed and set aside.

4. Petition disposed.

5. 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.)**