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

WRIT PETITION NO. 1746 OF 2024

Steelex Precisions Private Limited ...**Petitioner**
Versus
Assistant Commissioner of Income Tax-5(3)(1),
Ors. ...**Respondents**

Mr. B. V. Jhaveri a/w Ms. Bhargavi Rawal for Petitioner.
Mr. Vikas T. Khanchandani for Respondents-Revenue.

CORAM: K. R. SHRIRAM &
DR. NEELA GOKHALE, JJ.
DATED: 28th March 2024

PC :

1. Mentioned out of turn.

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

3. Mr. Jhaveri for Petitioner states that this petition is covered by the order passed by this Court in the case of ***Vodafone Idea Limited v. Deputy Commissioner of Income Tax, Circle-5(2)(1), Mumbai & Ors.***[1]. Mr. Khanchandani for Respondents agrees.

4. Petitioner is impugning a notice dated 17th March 2022 issued under Section 148A(b) of the Income Tax Act, 1961 ("**the Act**") and the order dated 7th April 2022 passed under Section 148A(d) of the Act and the notice also dated 7th April 2022 issued under Section 148

1. Writ Petition No. 2768 of 2022 dated 6th February 2024.

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**").

5. The impugned order and the impugned notice both dated 7th April 2022 state that the Authority that has accorded the sanction is the PCIT, Mumbai-5. The matter pertains to Assessment Year 2018-2019. Since the impugned order as well as the notice are both issued on 7th 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.

6. In these circumstances, Mr. Jhaveri submits that as held by this Court in ***Siemens Financial Services Private Limited v. Deputy Commissioner of Income Tax & Ors.***[2], the sanction is invalid. Mr. Khanchandani agrees. Consequently, the impugned order passed under Sections 148A(d) of the Act and impugned notice issued under Section 148 of the Act, both dated 7th April 2022, are hereby quashed and set aside.

2. (2023) 457 ITR 647 (Bom.).

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

8. Mr. Jhaveri states that the assessment order has also been passed and states a further affidavit will be filed by Petitioner. Registry to take the same on record for completion of record.

9. Since the Court has held the original sanction for passing order under Section 148A(d) of the Income Tax Act, 1961 itself to be invalid, the consequential assessment order passed also will be invalid. The same is also hereby quashed and set aside.

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

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