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

WRIT PETITION NO.1979 OF 2024

Mita Suppliers P. Ltd. ....Petitioner

V/s.

Income Tax Officer, Ward 4(2)(1) & Ors. ....Respondents

Mr. Nishit Gandhi for petitioner.
Ms. Shilpa Goel for respondents.

**CORAM : K.R. SHRIRAM &
DR. NEELA GOKHALE, JJ.**
DATED : 12th APRIL 2024

P.C. :

1 Ms. Goel undertakes to file vakalatnama on behalf of respondents within one week from today. Undertaking accepted.

2 This petition relates to Assessment Year 2018-19.

3 Mr. Gandhi 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] Ms. Goel for respondents agrees.

4 Petitioner is impugning a notice dated 15th March 2022 issued under Section 148A(b) of the Income Tax Act, 1961 ("the Act"), order dated 7th April 2022 passed under Section 148A(d) of the Act and notice also dated 7th 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)

1 Writ Petition No.2768 of 2022 dated 6.2.2024

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 7th 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 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 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. Gandhi 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. Ms. Goel agrees. Consequently, the impugned order and impugned notice, both dated 7th April 2022, issued under Section 148A(d) 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.

2 (2023) 457 ITR 647 (Bom)

7 Petition disposed. No order as to costs.

8 All rights and contentions are kept open.

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