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

(403) WRIT PETITION (L) NO. 17578 OF 2023

Chandar Mahadev NaikPetitioner
V/s.
Income Tax Officer, Ward 5 and Ors. ...Respondents

ALONGWITH
(404) WRIT PETITION (L) NO. 17587 OF 2023

Govind Namdev NaikPetitioner
V/s.
Income Tax Officer, Ward 5 and Ors. ...Respondents

ALONGWITH
(405) WRIT PETITION (L) NO. 17590 OF 2023

Vikas Narayan NaikPetitioner
V/s.
Income Tax Officer, Ward 5 and Ors. ...Respondents

Mr. Karan Gajra for Petitioners.
Ms. Samiksha Kanani i/b Mr. Ajeet Manwani for Respondents-Revenue.

CORAM : K.R. SHRIRAM &
NEELA GOKHALE, JJ.
DATED : 30th OCTOBER 2023

PC. :

1. These petitions relates to A.Y. 2016-2017. Counsel states that in these petitions the issue of improper sanction having been obtained has been raised amongst other grounds. Counsel state that the issue of improper sanction has been decided by this court in *Siemens Financial Services Private Limited Vs. Deputy Commissioner of Income Tax & Ors.*¹ wherein the

¹ (2023) 457 ITR 647 (BOM)

court has held that for A.Y. 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). 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.

2. Counsel further state that the findings in *Siemens Financial Services Pvt Ltd.* (Supra) would squarely apply to these petitions as well on the issue of sanction.

3. We would also add, if the notice has to be quashed, if there is an assessment order passed subsequently, those assessment orders having been passed relying on an incorrect sanction will also have to be quashed.

Therefore, impugned Assessment Order dated 27th May 2023 issued under Section 144 read with Section 147 of the Act is hereby quashed and set aside. In view of the above, all consequential proceedings including Notice of Demand, Penalty proceedings also stands 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.

(NEELA GOKHALE, J.)

(K.R. SHRIRAM, J.)