



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 3681 OF 2023

Shri Vardhaman Multi Staet Cooperative Credit Society Ltd., Washim
-Vs.-
Income Tax Officer, Akola and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's Orders.
or directions and Registrar's orders.

Mr.Kapil Hirani, counsel for the petitioner.
Mr.B.N.Mohta, counsel for the respondents.

**CORAM : AVINASH G. GHAROTE &
SMT. M. S. JAWALKAR, JJ.**

DATE : 23RD JANUARY, 2024

Mr.Mohta, learned counsel for the respondents, does not dispute that on facts as well as on law the issue raised in the present petition is covered by the judgment of this Court in *Siemens Financial Services Pvt. Ltd. v. Deputy Commissioner of Income Tax and others*, (Writ Petition No.4888 of 2022), decided on 25/09/2023, wherein the Court has held that for the Assessment Year 2016-17, the sanction should have been given under Section 151 (ii) and not under Section 151(i) of the Income Tax Act, 1961 and consequentially the sanction is invalid, on account of which, the notice issued itself would be rendered invalid and has to be quashed.

2. In view of the aforesaid position, as the notice dated 01/07/2022 (pg.174) in the instant petition, relates to Assessment Year 2016-17 and refers to prior approval of

the Principal CIT-1, Nagpur which is relatable to Section 151(i) and not to Section 151(ii) of the Income Tax Act, 1961, which position is not disputed by Mr. Mohta, learned counsel for the respondents, and since the date of the notice is 01/07/2022, what would be applicable would be Section 151(ii) of the Income Tax Act, 1961. In that factuality of the matter, the case being squarely covered by what has been held in *Siemens Financial Services Pvt.Ltd.* (supra), the notice dated 01/07/2022 under Section 148 of the Income Tax Act, 1961 (page-174) and all consequential action thereto are therefore quashed and set aside on the above ground.

3. Though Mr.Mohta, learned counsel for the respondents, submits that there is a proposal to challenge the judgment in *Siemens Financial Services Pvt. Ltd.* (supra) before the Hon'ble Apex Court, that as yet has not been done, considering which there is no reason to entertain his request for an adjournment on that ground.

4. The petition is accordingly allowed in the above terms. No order as to costs.

5. Needless to say, that it would be permissible for the respondents to take appropriate steps in terms of Section 151(ii) of the Income Tax Act, 1961 in case they so desire.

(SMT.M.S.JAWALKAR,J) (AVINASH G.GHAROTE,J)