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

INCOME TAX APPEAL NO. 1445 OF 2013

Commissioner of Income Tax – 6,
Mumbai. … Appellant
v/s
M/s.Instant Holdings Ltd., Mumbai. … Respondent

Mr.Suresh Kumar for the appellant.
Mr.Atul Jasani for the respondent.

CORAM: M.S. SANKLECHA &
N. M. JAMDAR, JJ.

DATED : 9TH JUNE, 2015

P.C.:

This appeal by the Revenue challenges the order dated 20 February 2013 passed by the Income Tax Appellate Tribunal (the Tribunal) in respect of Assessment Year 2003-04. By the impugned order, the order of the Commissioner of Income Tax (Appeals) deleting the penalty imposed under Section 271(1(c) of the Income Tax Act was upheld.

2 The appellant urged the following question of law:-

"Whether on the facts and in the circumstances of the case the Income Tax Appellate Tribunal was justified in deleting the penalty levied under Section 271(1)(c) of the Income Tax Act, 1961, on the ground that the addition made in the assessment order has been deleted by the Income Tax Appellate Tribunal, without appreciating the fact that the decision of the Income Tax Appellate Tribunal in deleting the quantum addition is not accepted by the Department and has preferred an appeal under Section 260A of the Income Tax Act, 1961 which is pending adjudication."

3 The impugned order dated 20 February 2013 of the Tribunal upheld the order of the Commissioner of Income Tax (Appeals) deleting penalty imposed by the Assessing Officer on the ground that in quantum proceedings the stand of the respondent assessee on merits was upheld by the Tribunal. The revenue carried the order of the Tribunal passed in quantum proceedings to this Court and this Court, by its order dated 11 June 2014 in Income Tax Appeal No.221 of 2012 dismissed the revenue's appeal. Accordingly, no fault can be found with the impugned order of the Tribunal. No substantial question of law arises.

4 Accordingly, the appeal is dismissed. No order as to costs.

(N. M. JAMDAR, J.) ***(M.S. SANKLECHA, J.)***