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

INCOME TAX APPEAL NOS.1692 OF 2013
ALONG WITH
INCOME TAX APPEAL NO. 2106 OF 2013
ALONG WITH
INCOME TAX APPEAL NO. 2107 OF 2013
ALONG WITH
INCOME TAX APPEAL NO. 2397 OF 2013
AND
INCOME TAX APPEALNO. 2400 OF 2013

The Commissioner of Income Tax-III, Pune …. Appellant in all appeals

v/s

Shri Shriram Hiralal Soni … Respondent in all appeals.

Mr.Tejveer Singh for the appellant in all appeals.

Mr.F.V. Irani with Mr.Atul Jasani for the respondent in all appeals.

CORAM: M.S. SANKLECHA &
N.M. JAMDAR, JJ.
DATED : 12TH AUGUST 2015

P.C.:

The appellant revenue has challenged the order dated 28 February 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). By the common impugned order for Assessment Years 1999-2000 to 2003-04, the Tribunal restored the issue of imposing penalty under Section 271(1)(c) of the Income Tax Act,1961 (the

Act), afresh, to the Assessing Officer.

2 Mr.Singh, learned counsel appearing for the revenue urges the following question of law for our consideration:

"Whether the Income Tax Appellate Tribunal is correct in setting aside the penalty order passed by the Commissioner of Income Tax (Appeals) and directing the Assessing Officer to re-visit the issue of penalty levied under Section 271(1)(c) of the Income Tax Act ?

3 We find that, for all the subject assessment years i.e. 1999-2000 to 2003-2004, the revenue had come up in appeal on quantum proceeding against the order of the Tribunal dated 17 June 2010. This Court by an order dated 2 April 2014 in Income Tax Appeal Nos.1842, 1702, 1709, 1736, 1757 of 2011, dismissed all the appeals. The revenue had also filed an appeal with regard to the deletion of penalty in Income Tax Appeal No.2019 of 2011 for the assessment year 2004-05. The appeal in respect of penalty was dismissed by order dated 2 April 2014 as under :

> *"**P.C.**:*
>
> *1. Similar substantial question of law is formulated at paragraph 5(a) in the accompanying appeals. Save and except, Income Tax Appeal Nos.2019 and 2045 of 2011. These are appeals arising out of deletion of penalty. We find that once on the identical proceedings the assessee had succeeded and the appeals of the revenue have been dismissed, then, even these appeals do not raise any substantial question of law and they are accordingly dismissed."*

4 Mr.Singh, learned counsel appearing for the revenue states that the issues raised by the revenue stand covered by the order of this Court dated 2 April 2014 in Income Tax Appeal No.2019 of 2011. In any case, as revenue's appeal in quantum proceedings to this Court have been dismissed for the subject assessment years, the occasion to restore the issue for reconsideration of the Assessing Officer for imposing of penalty does not arise.

5 Accordingly, the question as formulated does not give rise to any substantial question of law.

6 All the appeals dismissed. No order as to costs.

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