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

INCOME TAX APPEAL NO. 1080 OF 2014

The Commissioner of Income Tax-2 .. Appellant

v/s.

M/s. Indusind Bank Ltd. .. Respondent

Mr. Suresh Kumar for the appellant
Mr. Sanjiv M. Shah for the respondent

**CORAM : M.S. SANKLECHA &**
**M.S. SONAK, J.J.**

**DATED : 9th DECEMBER, 2016.**

**P.C.**

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 29th January, 2014 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order relates to Assessment Year 2000-01.

2. The Revenue urges only the following question of law for our consideration :-

> *"Whether on the facts and circumstances of the case, the Tribunal was justified in law, in deleting the penalty levied by the Assessing Officer u/s 271(1)(c) of the Income Tax Act, 1961 by holding that the claim of depreciation was a legal and*

*continuous claim and hence did not attract penalty even though the assessee had admitted before the Settlement Commission for Assessment Year 1996-97 and Assessment Year 1997-98 that is claims on leased transactions were false and there has been no revision in the return of income filed by the assessee to change the claim of depreciation?"*

3. The impugned order of the Tribunal has allowed the respondent assessee's appeal and deleted penalty imposed under Section 271(1)(c) of the Act. This by following its order dated 30th September, 2011 in the case of the same respondent assessee for the Assessment Year 2001-02, wherein on identical facts, penalty was deleted.

4. Mr. Suresh Kumar, the learned Counsel for the Revenue fairly points out that the Revenue being aggrieved by the order dated 30th September, 2011 of the Tribunal deleting the penalty for the Assessment Year 2001-02 had preferred an appeal to this Court being Income Tax Appeal No. 1293 of 2012 (the Commissioner of Income Tax02, Mumbai Vs. IndusInd Bank Ltd.). This Court by order dated 24th September, 2014 dismissed the Revenue's appeal being Income Tax Appeal No. 1293 of 2012 in respect of Assessment Year 2001-02 from the order of the Tribunal deleting the penalty imposed under Section 271(1)(c) of the Act.

5. It is an agreed position between the parties that the facts are identical in the two assessment years. Therefore, for the reasons indicated in our order dated 24th September, 2014, the question of law as proposed does not give rise to any substantial question of law. Thus, not entertained.

6. Therefore, Appeal dismissed. No order as to costs.

**(M.S. SONAK, J.)** **(M.S. SANKLECHA, J.)**