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

INCOME TAX APPEAL NO. 54 OF 2014

The Commissioner of Income-Tax-IV
Pune .. Appellant

v/s.

Honeywell Automation India Ltd. .. Respondent

Mr. Tejveer Singh for the appellant
Mr. Jas Sanghvi i/b PDS Legal for the respondent

CORAM : M.S. SANKLECHA &
A.K. MENON, J.J.

DATED : 20th JUNE, 2016.

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 8th May, 2013 passed by the Income Tax Appellate Tribunal (the Tribunal). This appeal relates to A.Y. 2002-03.

2. The Revenue has urged following question of law for our consideration :-

"(i) Whether in the facts and circumstances of the case and in law, the Tribunal has erred in deleting the penalty levied u/s 271(1)(c)

of the Income-Tax Act, 1961 on excessive claim u/s 10A of the I.T. Act, 1961 when the Department has not accepted the decision of the Tribunal of setting aside of the case to the Assessing Officer?

3. The impugned order of the Tribunal allowed the respondent assessee's appeal against imposition of penalty under Section 271(1)(c) of the Act. This was on account of the fact that in quantum proceedings, the respondent assessee had succeeded and the Tribunal by an order dated 7th September, 2011 set aside the dis-allowance on account of partial denial of deduction under Section 10A of the Act while restoring it to the Assessing Officer for fresh consideration.

4. The Revenue had filed an appeal against the order of the Tribunal dated 7th September, 2011 in quantum proceedings relating to A.Y. 2002-03 along with an order for A.Y. 2001-02 raising an identical issue being Income Tax Appeal Nos. 955 of 2012 and 973 of 2012. It is an admitted position between the parties that the above appeals filed by the Revenue in quantum proceedings were dismissed by the order of this Court dated 10th September, 2014.

5. In the above view, the penalty proceedings at this stage are unsustainable. Accordingly, no substantial question of law arises for

our consideration.

6. The appeal is dismissed. No order as to costs.

(A.K. MENON, J.) **(M.S. SANKLECHA, J.)**