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

INCOME TAX APPEAL NO. 587 OF 2014

Director of Income Tax (International Taxation) II, Mumbai	}	**Appellant**
versus		
Pipavav Shipyard Ltd.	}	**Respondent**

Mr. Arvind Pinto for the appellant.

None for the respondent.

CORAM :- S. C. DHARMADHIKARI & PRAKASH. D. NAIK, JJ.

DATED :- MARCH 27, 2017

P.C. :-

1. Heard Mr. Pinto. Perused the order under appeal dated 7th August, 2013 for the assessment year 2005-06. The tribunal has, in para 6 of the impugned order, held that the penalty was levied for failure to deduct tax in respect of the amount payable to M/s.Overseas Ship Building Corporation Centre. The assessing officer held that the assessee was liable to deduct tax. The assessee was treated as an assessee in default and therefore, interest and penalty was imposed and levied. That controversy was settled by the tribunal and it held that the assessee had no obligation to deduct the tax at source. Once there was no

obligation to deduct the tax, then, neither the interest or the penalty, therefore, was justified. The imposition of penalty was, therefore, rightly interfered with. The penalty has been deleted. Such an exercise and in the facts of the case of the respondent-assessee does not raise any substantial question of law. The appeal is devoid of merits and it is dismissed. There would be no order as to costs.

(PRAKASH.D.NAIK, J.) **(S.C.DHARMADHIKARI, J.)**