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

INCOME TAX APPEAL NO. 1863 OF 2014

The Commissioner of Income Tax .. Appellant
v/s.

M/s. Industrial Development bank of
India Ltd. .. Respondent

Mr. A.R. Malhotra a/w Mr. N.A. Kazi for the appellant
Mr. Satish Mody i/b Aasifa Khan for the respondent

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

DATED : 24th MARCH, 2017.

P.C.

1. This Appeal under Section 260-A of the Income Tax Act, 1961 (the Act) challenges the order dated 23rd August, 2014 passed by the Income Tax Appellate Tribunal (the Tribunal). The impugned order is in respect of Assessment Year 1993-94.

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

> *"Whether on the facts and in the circumstances of the case and in law, the Tribunal is right in deleting the penalty levied u/s 271(1)(c) on the ground that the Tribunal had held that reopening of assessment was bad in law when the details leading*

to the re-assessment showed that the assessee had claimed excess relief?

3. Mr. Malhotra, learned Counsel appearing for the Revenue very fairly states that the appeal filed by the Revenue in quantum proceedings relating to the subject assessment year being Income Tax Appeal No.494 of 2014 (Commissioner of Income Tax Vs. IDBI Ltd.) was dismissed on 19th September, 2016.

4. In the above view, the present appeal from order of penalty imposed under Section 271(1)(c) of the Act would no longer survive.

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

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