IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.1289 OF 2014

The Commissioner of Income-Tax-8, Mumbai.	....	Appellant
Vs.		
M/s Armour Chemicals Limited Mumbai	....	Respondent

Mr. Arvind Pinto for the Appellant.

CORAM : S.V. GANGAPURWALA AND G.S. KULKARNI, JJ.

DATE : 7 JUNE, 2017

PER COURT :

The Revenue assails the order of the Tribunal thereby allowing the appeal of the Assessee and dismissing the appeal of the Revenue. The dispute is about the penalty levied under Section 271 1(c) of the Income-Tax Act.

2 The learned counsel for the Appellant states that it is not the case where additions had been made purely on the estimated basis without reference to any evidence/materials on

record. The Assessing Officer, after detail analysis and bringing the evidence/ material on record, rejected the books of accounts of the assessee and estimated the profits and said additions had been partly sustained by the Tribunal. In view of that the Tribunal was not justified in deleting the penalty imposed under Section 271 1(c) of the Income Tax Act, 1961.

3 We have considered the submissions. It has been observed by the Tribunal that the impugned assessment was the second round of assessment. In the first round, the CIT (A) had set aside the assessment to be done de-novo. In the regular assessment, the findings were based on the findings for the Assessment Year 1994-1995 wherein the books of accounts were rejected and average rate of 3% of net sales and other income was applied. It was held by the Tribunal that the assessment was based on the preceding year and in fact, in the current year, there was no material, with which the Assessing Officer could pin down the assessee.

4 The reason given by the Tribunal is a plausible one. In view of that, no substantial question of law arises. The appeal is dismissed. No costs.

(**G.S. KULKARNI, J.**) (**S.V. GANGAPURWALA, J.)**