*Sharayu Khot.*

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

**INCOME TAX APPEAL NO. 1020 OF 2015**

**Pr. Commissioner of Income Tax-4** ...**Appellant**

***Versus***

**M/s. Yes Power and Infrastructure P. Ltd.** ...**Respondent**

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Mr. Suresh Kumar, for the Appellant.

Mr. Sameer Dalal, for the Respondent.

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**CORAM : M.S. SANKLECHA & RIYAZ I. CHAGLA, JJ.**

**DATE : 20 February 2018**

**ORDER :**

1. This Appeal under Section 260A of the Income Tax Act, 1961 ("***The Act***" for short), challenges the order dated 2 March 2015 passed by the Income Tax Appellate Tribunal ("***The***

***Tribunal***" for short). The impugned order dated 2 March 2015 is in respect of Assessment Year 2005-06.

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

> Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in deleting penalty levied under Section 271(1)(c) of the Act?

3. The impugned order of the Tribunal allowed the Respondent-Assessee's Appeal against imposition of penalty by holding that in case of quantum proceedings, the Appeal of the Respondent-Assessee has been allowed. Thus, the very foundation of the penalty proceedings have been set aside the occasion to levy penalty does not arise.

4. We have dismissed today the Revenues's Appeal being Income Tax Appeal No. 813 of 2015 against the order of

the Tribunal dated 17 December 2014 in the quantum proceedings for the subject assessment year 2005-06.

5. In the above view, the present Appeal of the Revenue against deletion of penalty would also not survive. Therefore, the question as proposed does not give rise to any substantial question of law. Thus, not entertained.

6. Accordingly, the Appeal is dismissed, with no order as to costs.

**[RIYAZ I. CHAGLA J.]** **[M.S. SANKLECHA, J.]**