R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

INCOME TAX APPEAL NO. 180 OF 2017

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

Versus

M/s. Shreya Life Sciences Pvt Ltd .. Respondent

....

- Mr. Tejveer Singh for the Appellant

....

CORAM : AKIL KURESHI &
SARANG V. KOTWAL, JJ.

DATE : MARCH 19, 2019.

P.C.:

1. Revenue is in the appeal against the judgment of the Income Tax Appellate Tribunal ("the Tribunal" for short) raising following question for our consideration:-

> " Whether on the facts and in the circumstances of the case and in law, the Tribunal was justified in deleting the penalty levied u/S. 221(1) r/w S. 140A(3) of the I.T. Act, 1961 when the assessee had defaulted on payment of self assessment tax on the income earned during the previous year relevant to assessment year 2010-11?"

2. Respondent assessee, a Private Limited Company had failed to deposit self assessment tax due to which the Assessing Officer imposed penalty under Section 221(1) of the Income Tax Act, 1961 ("the Act" for short). The Tribunal while deleting the penalty referred to and relied upon the further proviso to sub-section (1) of Section 221 of the Act which provides that where the assessee proves to the satisfaction of the Assessing Officer that the default was for good and sufficient reasons, no penalty shall be levied under the said Section. The Tribunal accepted the assessee's explanation that due to acute financial constrains, the tax could not be deposited. The assessee had pointed out that even the other dues such as the provident fund, ESIC and bank interest could not be paid by the assessee. The assessee could also not deposit the government taxes such as sales tax and service tax. In fact, the recoveries of the tax could be made only upon adjustment of the bank accounts.

3. We do not see any error in the view of the Tribunal. No question of law arises. The appeal is dismissed.

[SARANG V. KOTWAL, J.] **[AKIL KURESHI, J]**