R.M. AMBERKAR
(Private Secretary)

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

INCOME TAX APPEAL NO. 372 OF 2017

Pr. Commissioner of Income Tax-1 .. Appellant

Versus

M/s. SBI Life Insurance Co Ltd .. Respondent

....

- Mr. Suresh Kumar and Ms. Samiksha Kanani for the Appellant
- Mr. Sameer Dalal for the Respondent

....

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

DATE : MARCH 22, 2019.

P.C.:

1. This appeal is filed by the Revenue to challenge the judgment of the Income Tax Appellate Tribunal "the Tribunal" for short raising following question for our consideration:-

> " Whether on facts and in the circumstances of the case and in law, the Tribunal was justified in deleting the penalty imposed under Section 271(1)(c) of the I.T. Act, 1961 on account of negative reserve, ignored in calculation of liability to arrive at actuarial surplus, based on the incorrect assumption of the fact in a common order passed for AY 2004-05 and AY 2005-06 in quantum appeal, the Tribunal restored the issue back to the file of the Assessing Officer for deciding afresh with certain directions, whereas actually the issue was decided against the Revenue by the above orders of the Tribunal with directions?"

2. The Tribunal having merely remanded the issue to the Assessing Officer, we do not find any question of law has arisen. Learned counsel for the respondent pointed out that on remand also, the Assessing Officer has held in favour of the assessee. In either case, no question of law arises. Income Tax Appeal is dismissed.

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