

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

**INCOME TAX APPEAL NO.1390 OF 2012**  
**AND**

**INCOME TAX APPEAL NO.114 OF 2013**  
**(NOT ON BOARD)**

...	
The Commissioner of Income-Tax-25	...Appellant
v/s.	
Bio-vet Industries	...Respondent
...	
Mr.Arvind Pinto for the Appellant.	
None for the Respondent.	
...	

**CORAM : S.C.DHARMADHIKARI &**  
**A.A. SAYED, JJ.**

**DATED : 31 OCTOBER 2014**

**P.C.:**

This Appeal challenges the deletion of the penalty by the Tribunal.

2. By the impugned Order dated 29 July 2011, the Tribunal found that the essential ingredients of Section 271(1)(c) of the Income Tax Act together with explanation (1) thereto are not satisfied, so as to enable the Assessing Officer to impose penalty.

3. The reasons assigned by the Tribunal are that in matters between the parties on merits, the Assessee was able to persuade the Tribunal and his claim that Unit-II is a separate industrial undertaking and entitled 100% deduction under Section 80-IB was upheld. That is precisely the ground on which the penalty has been imposed. The reasons assigned by the Tribunal in para 18 of the order under challenge, therefore, do not raise any substantial question of law. They are not perverse or vitiated by any error of law apparent on the face of the record. The Appeal is dismissed.

4. Mr.Pinto, at this stage, states that between the same parties and for another assessment year 2003-04, the Revenue has brought an appeal being Income Tax Appeal No.114 of 2013. He submits that as the issue being identical to the present order, the order passed today should dispose of this appeal as well.

5. We accept the request of Mr.Pinto and our order shall also dispose of Appeal No.114 of 2013.

**(A.A. SAYED, J.)**

**(S.C.DHARMADHIKARI,J.)**

