$~31

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **CRL.M.C. 1158/2020**

SHRI VIJAY PAL YADAV & ANR. .....Petitioners

Through: Mr. Suryanarayana Singh, Sr. Adv. along with Mr. Utkarsh Sharma & Mr. Peeyush Katara, Advs.

versus

INCOME TAX DEPARTMENT THROUGH PRINCIPAL COMMISSIONER OF INCOME TAX-6 & ANR. .....Respondents

Through: Mr. Sunil Agarwal, Sr. S.C, Mr. Viplav Acharya, Jr. S.C, Ms. Priya Sarkar, Jr. S.C., Mr. Anugrah Dwivedi & Mr. Utkarsh Tiwari, Advs.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

O R D E R

% **13.11.2025**

1. The present petition is filed seeking quashing of criminal complaint filed under Section 276C(2) read with 278B/278E of the Income Tax Act, 1961 ('**IT Act**') and order dated 27.08.2019 passed in Criminal Complaint No. 7951/2019, whereby the petitioners were summoned for the offence under Section 276C(2)/278B/278E of the IT Act.

2. Pursuant to the income tax assessment against the accused company, namely, M/s. Nishyam Farms Pvt. Ltd. for Assessment Year 2009 – 2010 under Section 147/143(3) of the Income Tax Act, 1961 ('**the Act**'), a demand notice dated 21.12.2016 was issued demanding a sum of ₹194.22 lakhs as income tax and ₹88.47 lakhs as penalty.

3. On non-payment of the tax and the penalty, a show cause notice dated 15.03.2019 was issued to show as to why the prosecution under Section 276C(2) of the IT Act should not be launched against the accused company as well as the petitioners being the persons in charge of the company at the relevant time.

4. The said assessment order dated 21.12.2016 was challenged by the accused company before the Appellate Authority being Commissioner of Income Tax (Appeals), who confirmed the order of assessment. However, in an appeal filed by the accused company before the Income Tax Appellate Tribunal (‘**ITAT**’), the order of assessment was set aside and the matter was remitted back to the Assessing Officer for passing of the order afresh.

5. Thus, admittedly the very basis of initiation of the prosecution ceased to exist on setting aside of the assessment order dated 21.12.2016.

6. The present petition is, therefore, allowed and the Criminal Complaint No.7951/2019 and all proceedings arising therefrom are quashed.

7. It is pointed out by the learned Standing Counsel that pursuant to the matter being remanded to the Assessing Officer, a fresh assessment order has already been passed. In that regard, the respondent department is at liberty to take appropriate action in accordance with law.

8. The petition is disposed of with the aforesaid observations.

AMIT MAHAJAN, J

NOVEMBER 13, 2025
“SK”