**IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**

175 Date of decision: 23.02.2026

1. CRM-M-44575-2016 (O&M)
2. CRM-M-44511-2016 (O&M)

SHRI SARANPAL SINGH & ORS V/S INCOME TAX OFFICER WARD 4 (3), CHANDIGARH

3. CRM-M-46117-2016 (O&M)

RAKESH KUMAR KARWAL V/S DEPUTY COMMISSIONER OF INCOME TAX CHD

**CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY**

Present : Mr. Pankaj Jain, Sr. Advocate with
Mr. Rohit Kaura, Advocate for the petitioner.

Ms. Urvashi Dhugga, Sr. Standing Counsel and
Mr. Vaibhav Gupta, Advocate for the respondent-Income Tax.

****

**AMAN CHAUDHARY, J. (Oral)**

1. Learned Senior counsel for the petitioners submits that in the present cases, the entire tax liability has been paid along with interest on 31.01.2014 with regard to assessment years 2011-12 and 2012-13, in view of which, the criminal complaint requires to be quashed, for which reference is made to **M/s Health Bio Tech Ltd. and others vs. Deputy Commissioner of Income Tax Central Circle 4(1) Chandigarh,** CRM-M-7918-2015, decided on 14.09.2023, against which no SLP has been filed, relying on which, this Court in **M/s Hansa Metallics Ltd. and others vs. Deputy Commissioner of Income Tax,** CRM-M-43841-2018, decided on 22.01.2024 had quashed the complaint, to which no challenge was made. The relevant paras of the latter judgment read thus:

> "14. The relevant judgments are as under:-
>
> The Karnataka High Court in **Confident Projects (India) (P.) Ltd.'s** case (supra), held as under:-
>
> > "8. In the light of the above submissions made, the points that would arise for determination are:-
> >
> > (1) Whether for an offence to be said to be committed under Section 277 of the Income Tax Act, the misstatement is required to be willful to prosecute the assessee?
> >
> > (2) Whether there is a misstatement or willful misstatement by the petitioners in the present proceedings?
> >
> > (3) Whether the delayed payment of income tax would amount to evasion of tax or not?

(4) Whether all the Directors of the Company can be prosecuted for any violation of the Income Tax Act by relying on the inclusive definition under Section 2(35) of the Income Tax Act?
(5) Whether the order of cognizance by the Economic Offences Court is proper and correct?
(6) Whether the Magistrate is required to follow the proceedings under Section 202 even for the offences under the Income Tax Act?
(7) What Order?
9. Answer to Point No.1: Whether for an offence to be said to be committed under Section 277 of the Income Tax Act, the misstatement is required to be willful to prosecute the assessee?
Answer to Point No.2: Whether there is a misstatement or willful misstatement by the petitioners in the present proceedings?
9.1. Both the above points being related to each other are taken up for consideration together.
9.2. Sri.K.V.Aravind, learned Senior Standing Counsel for Income-tax Department would contend that there is reverse burden of proof under Section 277 of the Income Tax Act inasmuch as requiring the assessee to support the statements made in the returns.

xx xx xx

<u>10. Answer to Point No.3: Whether the delayed payment of Income Tax would amount to evasion of tax or not?</u>
<u>10.1. This question is no longer res integra inasmuch as this Court in Crl.P No.4891/2014 (Vyalikaval's case) has held that delayed payment of income tax would not amount to evasion of tax. Applying the same principle to the present fact situation, the delay caused by the petitioner-Company in making payment of the income tax cannot be said to be evasion.</u>
<u>10.2. The fact remains that income tax has been paid and the authorities have received the necessary taxes. If at all, for the said delay, there could be an interest component which could have been levied.</u>
<u>10.3. Hence, I answer Point No.3 by holding that delayed payment of Income Tax would not amount to evasion of tax, so long as there is payment of tax, more so for the reason that in the returns filed there is an acknowledgement of tax due to be paid</u>.
11. Answer to Point No.4: Whether all the Directors of the Company can be prosecuted for any violation of the Income Tax Act in terms by relying on the inclusive definition under Section 2(35) of the Income Tax Act? …………"

(emphasis supplied)

The Special Leave to Appeal filed against the aforesaid judgment was dismissed by the Hon'ble Supreme Court.

The Madras High Court in **<u>S.P. Velayutham's</u>** case (supra), held as under:-

"8. To prosecute a person there must be a wilful attempt on the part of the assessee to evade payment of any tax, penalty or interest. The explanation to the above section makes it very clear that the evasion by way of any false entry or statement in the books of account or other document or

> omission to make any entry in the books of accounts or other documents or any other circumstances which will have the effect of enabling the assessee to evade tax or penalty or interest chargeable or imposable under this Act or the payment thereof. Though explanation is inclusive one it is not the case of the Department that assessee has made any false entry in the statements or documents or omitted to make any such entry in the books of account or other document or acted in any other manner to avoid payment of tax. It is not the case of the Department that the assessee has made an attempt to alienate the property in order to defeat the payment etc., Therefore, when the Return has been properly accepted and the assessment is also confirmed, mere default in payment of taxes in view of this Court, unless such default arising out of any of the circumstances, which will have a effect of the assessee to defeat the payment, the word employed in the section viz., "wilful attempt" cannot be imported to mere failure to pay the tax. From the inception there is no suppression and even the reply notice he has clearly stated the circumstances which forced him to such default"

(emphasis supplied)

This Court in the case of **M/s Health Bio Tech Ltd. & others's** case (supra), held as under:-

> "16. There is no debate on the issue of maintenance of the criminal proceedings simultaneously with the civil proceedings (in the present case levying of penalty etc.). However, while maintaining both these proceedings simultaneously, the one fact that must be present there that there was or has been a criminal intent in the mind of the accused right from the beginning. In the instant case, it is not in dispute that the income tax was self assessed and payment of the same stands also made, though belatedly. Thus, the question of evasion of tax does not arise in the present facts and circumstances. The facts and circumstances of the case further does not reveal that there was a deliberate and willful default of evasion of tax on the part of the petitioners. Learned counsel for the respondent-Department is unable to show anything on record as to how and in what manner, the petitioners have ever tried to evade the tax particularly, when the same was duly shown and admitted/acknowledged while filing the Income Tax Returns for the Assessment Year 2011-12."

(emphasis supplied)

15. Coming back to the facts of the instant case, the filing of the Income Tax Returns for the Assessment year 2012-13 is not denied. The other undisputed facts are computation made therein i.e. the gross income, net income and income tax etc. The only question that remains is as to whether delayed payment alongwith the interest could be termed as evasion of tax for which the complaint in question has been filed. The judgments in **Confident Projects (India) (P.) Ltd.**(supra), **S.P. Velayutham** (supra) and **M/s Health Bio Tech Ltd. & others** (supra) have categorically held that delayed payment of income tax would not amount to evasion of tax. In the instant case, as has already been noticed hereinabove, the Return for the total income for the year 2012-13 was filed on 29.09.2012 for amount of Rs.8,20,53,544/-. The tax was self-assessed for an amount of Rs.2,10,91,150/-. On account of the

> financial state of the company which remains debatable, the tax alongwith interest was paid on 10.07.2013. However, the show cause notice for delayed payment was sent only on 11.02.2014 and 24.02.2014 pursuant to which the complaint came to be instituted. Therefore, by no stretch of imagination can it be held that there was any evasion of tax on the part of the petitioners, though there was a delay in the payment of the tax for which interest stands levied and paid.
>
> 16. In view of the settled law and the fact and circumstances of the present case, the present petition is allowed. Complaint No.1368 of 2014 dated 01.04.2014 (Annexure P-6), the order dated 20.08.2018 (Annexure P-7), the order dated 06.09.2018 (Annexure P-8) along with all the consequential proceedings arising therefrom are hereby quashed qua the petitioners."

2. Learned counsel for the respondent-Income Tax, despite best efforts, has not been able to controvert as regards the factual position or draw out any distinctive aspects in the aforementioned decision or cite any contrary law.

3. Resultantly, the present petition is allowed. The impugned criminal complaint nos. COMP/1535/2014 dated 17.04.2014, COMP/4959/2014 dated 30.07.2014 and COMP/1339/2025 dated 21.03.2015, alongwith all consequential proceedings arising therefrom, are hereby set aside qua the present petitioners.

4. Photocopy of this order be placed on the connected file(s).

**(AMAN CHAUDHARY)**
**JUDGE**

**23.02.2026**

ashok

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No

ASHOK KUMAR
2026.02.25 19:14
I attest to the accuracy and integrity of this document