2026:PHHC:127092

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

(1) CRM-M-12302-2018 (O&M)

Jagtar Singh ....Petitioner.

VERSUS

The Assistant Director of Income Tax (Investigation) III, Ludhiana and another

....Respondents.

WITH

(2) CRM-M-12432-2018 (O&M)

Gurpreet Singh ....Petitioner.

VERSUS

The Assistant Director of Income Tax (Investigation) III, Ludhiana

....Respondent.

***

1.	**Date when the judgment was reserved**	**12.08.2026**
2.	**Date when the judgment is pronounced**	**09.09.2026**
3.	**Date when the judgment is uploaded on the website**	**11.09.2026**
4.	**Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced**	**Full**
5.	**The delay, if any, of the pronouncement of full judgment, and reasons thereof.**	**Not applicable.**

CORAM : HON'BLE MR. JUSTICE SANJAY VASHISTH

Argued by: Mr. Gautam Dutt, Senior Advocate with
Mr. Rehan Gupta, Advocate for the petitioner(s).

Ms. Nikita Garg, Junior Standing Counsel (Through V.C.) for the respondent-Income Tax.

****

SANJAY VASHISTH, J.

By this common order, both the afore-mentioned petitions are disposed of together as the same are preferred against, one and the same order.

2. Petitioner-Jagtar Singh (in CRM-M-12302-2018) and petitioner-Gurpreet Singh (in CRM-M-12432-2018), have filed aforementioned two separate petitions under Section 482 of the Criminal Procedure Code (Cr.P.C.), for quashing of Complaint No.120 dated 31.03.2009 for commission of offences under Sections 177, 181, 193, 106, 34 of Indian Penal Code (IPC) and Section 277 of the Income Tax Act.

Also there is a challenge to all subsequent proceedings including one common summoning order dated 31.03.2009, order dated 03.12.2016 passed by the Court of learned Chief Judicial Magistrate, Ludhiana, dismissing the application for discharge and also the order dated 01.02.2018, whereby in revisional jurisdiction, the Court of Sessions dismissed the revision petition by maintaining the summoning order.

3. Factual matrix of the case is that a search and seizure operation under Section 132 of the Income Tax Act, 1961, was carried out in the business as well as residential premises of M/s Gobind Expeller Group on 24.02.2009 by the team of officers of Income Tax Department, which included a search at the residence of both the petitioners.

At the beginning of the search, preliminary statement of both the accused (petitioners herein) was recorded on 24.02.2009 for disclosure of the details of their lockers.

*Question No.4 put to the petitioner-Gurpreet Singh reads as under:-

"Q. No.4	*:*	*Please give details of your bank accounts and also details of your lockers with name and address of the bank.*
Answer	*:*	*I am having bank account No.CC73 with Allahabad Bank, Cheema Chowk, Ludhiana and not having or maintaining any locker in my name or in the name of my wife Mrs. Tejinder Kaur."*

*Question No.6 put to the petitioner-Jagtar Singh reads as under:-

"Q. No.6	*:*	*Please mention your bank lockers in your name or in the name of your family members.*
Answer	*:*	*One locker in Oriental Bank of Commerce, Miller Ganj, Ludhiana in the Joint name of Smt. Jaspal Kaur and myself.""*

On enquiries, it was found that petitioner-Gurpreet Singh (accused) had made a false statement as he was having Locker No.74 in Oriental Bank of Commerce, Miller Ganj, Ludhiana along with wife and was also having joint account in Kotak Mahindra Bank, Ferorze Gandhi Market, Ludhiana, having A/c No.02510010004343.

During enquiry, the statement of petitioner-Jagtar Singh was also found to be false as he was having one Locker No.150 in Kotak Mahindra Bank, Ferorze Gandhi Market, Ludhiana, and it was operated by him which later on was sealed on 26.02.2009 by separately passing a restraint order under Section 132(3) of Income Tax Act. On enquiry, it was also found that the said locker was allotted to Jagtar Singh on 23.01.2009 and was operated thereafter on 23.01.2009, 29.01.2009 and 24.02.2009.

Since both the accused/petitioners were bound to furnish true information and statement on oath before public servant, but both of them knowingly furnished a false statement, thereby giving rise to the impugned complaint submitted by the Income Tax Department, through its authorised officer.

4. After institution of the complaint on 31.03.2009, vide order of the same day, Court of learned Chief Judicial Magistrate, Ludhiana, summoned both the petitioners for facing prosecution under Sections 177, 181, 193, 196, 34 IPC and Section 277 of the Income Tax Act.

5. On 13.12.2010, one Settlement Application No.PB/LD51/2010-11/19-IT was instituted before the Income Tax Settlement Commission, Principal Bench, Delhi, and it initiated the proceedings under Section 245D of the Income Tax Act. In the said proceedings, issue regarding non-disclosure of the bank locker in Kotak Mahindra Bank, Ludhiana, was considered in Paragraph No.41.1 to 41.6 by the Settlement Commission. The relevant Paragraph No.41.4, 41.5 and 41.6 are reproduced hereunder:-

> *"41.1 xxx*
>
> *41.2 xxx*
>
> *41.3 xxx*
>
> *41.4 During the course of hearing, learned counsel for the applicant was informed by the Bench that the applicant will have to make full and true disclosure of contents of the locker and the value of the same undisclosed contents will be taxed in the hands of the applicant. The applicant has not furnished any estimate of the value of assets in the locker.*
>
> ***41.5 We have considered the matter, considering the social status and economic well being of the applicant in our view, it would be fair to make an additional of Rs.50 lakhs which would cover all the discrepancies as a whole and the same would be taxed in the hands of the applicant as undisclosed income in assessment year 2009-10 and 2010-11.***
>
> ***41.6 Ld. counsel for the applicant in the course of hearing agreed that the amount of Rs.50 lakhs is being offered***

by him for taxation to buy peace and in the spirit of settlement. This is accepted by the Commission."

6. As per final order dated 29.06.2012 of the Settlement Commission, total amount payable by petitioner-Jagtar Singh was assessed as Rs.6,18,69,132.00. (more than rupees six crores, eighteen lakhs and sixty nine thousands), in regard to the immunity from prosecution, prayer of the applicant therein was accepted by recording as under:-

> *"45. The applicant has prayed for immunity from prosecution and waiver of penalties under various provisions of the Income Tax Act. In view of the cooperation extended to the Commission during hearing and on facts and circumstances of the case, immunity is hereby granted from prosecution and penalty imposable under the I.T. Act in relation to the issues arising from the application and covered by this order except in respect of prosecution proceedings already launched by the Department on the issue of illegal operation of locker by the applicant on 24.02.2009 in light of proviso to section 245H(1)."*

7. It was thereafter that during the course of pre-charge evidence, petitioners filed application for discharge under Section 245(2) Cr.P.C., which was dismissed, vide order dated 03.12.2006 passed by learned Chief Judicial Magistrate, Ludhiana (Annexure P-5 in CRM-M-12302-2018), by concluding as under:-

> "*As such, in the light of entire preceding discussion, it clearly transpires that no ground is made out for dropping of the proceedings at this stage in the present complaint, which pertains merely to the aspect of recording of false statements by the accused on 24.2.2009, concealing their locker and bank account. The technicality of the offence contemplated is bereft of any consequence of some advantage or benefit having been availed by the accused by way of making of the false statements*

alleged. As such, no merit is found in the application and same is hereby ordered to be dismissed. File is now adjourned to 22.12.2016 for remaining pre charge evidence of the complainant."

The discharge application filed by the petitioners was based mainly on two grounds, **firstly** that the allegations against them are false and **secondly** that Settlement Commission has already provided immunity to the petitioners and they cannot be tried again because proceedings before Settlement Commission also amounts to judicial proceedings.

Trial Court dismissed the application for discharge on the ground that, "***no immunity from proceedings have been granted to the petitioners with respect to proceedings which have already been launched."*** It has also been observed by learned trial Court that plea of petitioners can only be evaluated after conclusion of pre-charge evidence.

8. Order dismissing the discharge application was upheld maintained by the Revisional Court, vide its order dated 01.02.2018. By giving reference of Section 245H(1) of the Income Tax Act, learned Revisional Court also observed that the Settlement Commission was not competent to grant immunity from proceedings, which have already been launched by the Department. Thus, there being no illegality in the proceedings or institution of the complaint, Revisional Court also dismissed the plea of discharge.

9. In view of the aforesaid backdrops, Mr. Gautam Dutt, Senior Advocate argued that the alleged non-disclosure of the details of the existing locker and the contents lying in it relates back to the period 24.02.2009. The complaint was instituted on 31.03.2009 but without recording any reason

therein, same day the petitioners were summoned to face prosecution by a non-speaking order.

After being summoned, at the earliest an application under Section 245H of the Act, to initiate proceedings before the Settlement Commission was filed on 13.12.2010 and by accepting the offer of Rs.50 lakhs, proceedings before the Settlement Commission were concluded on 29.06.2012.

Without challenging the constitutional validity of Section 245H of Income Tax Act, regarding the absence of provision for granting immunity where prosecution has already been launched, Mr. Gautam Dutt, submitted that the Settlement Commission itself retains discretion. Specifically, if satisfied with the explanation offered, the Commission may, by recording reasons in writing grant immunity from prosecution for any offence under the Act or under IPC, or any other Central Act for the time being in force.

He further submitted that while the Settlement Commission may lack discretion to grant immunity from prosecution where proceedings have already been instituted, the Act nowhere bars the Constitutional Courts from exercising their inherent power to quash/annul the proceedings, if their continuation solely serves to impose penal punishment of imprisonment. He also submitted that in the present case, petitioner was granted immunity from future prosecution and thus, it gives rise to a recurring cause of action, allowing petitioners to challenge the pendency of prosecution proceedings before the High Court or the Apex Court for exercising their Constitutional powers, *of course* in the larger interest of justice.

To substantiate his arguments, Mr. Gautam Dutt, Senior Advocate relied upon judgment of Hon'ble Supreme Court in ***Vijay***

Krishnaswami @ Krishnaswami Vijay Kumar vs. The Deputy Director of Income Tax (Investigation), 2025 SCC Online SC 1843; and judgments of this Court in ***Satish Vohra and others vs. State of Punjab and others,*** passed in ***CRM-M-3413-2024 decided on 29.05.2026*** and ***Nagesh Aggarwal vs. Deputy Director of Income Tax (Investigation),*** passed in ***CRM-M-37047-2013 decided on 09.02.2015.***

Mr. Gautam Dutt, argued that the proceedings are meaningless because of petitioners have been granted immunity from prosecution. He submitted that there is no loss to the revenue as the department has already been compensated along with interest pursuant to Settlement Commission exercising its statutory jurisdiction. Once said order has already attained finality, no fruitful purpose under law would be served by continuing the proceedings. Thus, prayed for quashing of the impugned complaint, summoning order dated 31.03.2009, order dated 03.12.2016 and revisional court order dated 01.02.2018.

10. Ms. Nikita Garg, Junior Standing Counsel for respondent-Income Tax Department, argued that the complaint filed by the Department is not confined solely to Section 277 of the Income Tax Act, rather the entire case set up by the petitioners proceeds on the incorrect premise that the prosecution lies exclusively under Section 277 of the Income Tax Act. Prosecution is founded upon the allegations that knowingly false information was provided during search proceedings by concealing an existing bank locker and, subsequently by making false statement regarding its operation. Thus, the case is completely covered by provisions of Section 245H(1) of the Income Tax Act.

It was further argued that since the criminal complaint had already been instituted nearly 20 months prior to the filing of the Settlement Application, the first proviso to Section 245H(1) directly operates as a statutory bar against granting of immunity. There are other offences also which are punishable under IPC. In the proceedings before the Settlement Commission, there was a clear admission by the petitioners regarding existence of the locker. The events connected therewith were specifically considered by the Settlement Commission along with the admission regarding proviso in relation to the prosecution already initiated. Therefore, petitioners cannot be allowed to approbate and reprobate at the same time by taking a diametrically opposite stand. The order of Settlement Commission must be considered in its entirety and not in parts.

During arguments, learned counsel for respondent-Income Tax Department also highlighted that prosecution was not launched for the contents/ articles lying in the locker; rather it is based upon the concealment and existence of having a locker itself, which was not even disclosed despite there being a specific query. Furthermore, Paragraph 45 of the order of Settlement Commission expressly excludes the immunity from prosecution for the petitioners, wherein it is mentioned ***"if already not initiated".*** Ratio of judgments relied upon by learned senior counsel for the petitioners in ***Vijay Krishnaswami @ Krishnaswami Vijay Kumar'***s case (supra) etc., cannot be extended to the facts and circumstances of the present case. Therefore, as per respondents, same would not be applicable and thus, both petitions, being devoid of merit, are liable to be dismissed.

11. I have heard the submissions made by respective counsel from both the sides and also perused the appended documents including the complaint and the impugned orders.

12. For ready reference, Section 245H of the Income Tax Act, 1961, is reproduced hereunder:-

> ***"Power of Settlement Commission to grant immunity from prosecution and penalty****.*
>
> ***245H.*** *The Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 245C has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his income and the manner in which such income has been derived, grant to such person, subject to such conditions as it may think fit to impose for the reasons to be recorded in writing, immunity from prosecution for any offence under this Act or under the Indian Penal Code (45 of 1860) or under any other Central Act for the time being in force and also (either wholly or in part) from the imposition of any penalty under this Act, with respect to the case covered by the settlement:*
>
> ***Provided*** *that no such immunity shall be granted by the Settlement Commission in cases where the proceedings for the prosecution for any such offence have been instituted before the date of receipt of the application under section 245C:*
>
> ***Provided further*** *that the Settlement Commission shall not grant immunity from prosecution for any offence under the Indian Penal Code (45 of 1860) or under any Central Act other than this Act and the Wealth-tax Act, 1957 (27 of 1957) to a person who makes an application under section 245C on or after the 1st day of June, 2007."*

13. Section 277 of the Income Tax Act, 1961, is also reproduced hereunder:-

> *"**False statement in verification, etc.***

> ***277.*** *If a person makes a statement in any verification under this Act or under any rule made thereunder, or delivers an account or statement which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be punishable,--*
>
> *(i) in a case where the amount of tax, which would have been evaded if the statement or account had been accepted as true, exceeds twenty-five hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;*
>
> *(ii) in any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and with fine.*

14. Bare reading of Section 245H of Income Tax Act outlines circumstances and enabling provisions under which Settlement Commission may grant immunity from prosecution for any offence under this Act or under IPC or under any other Central Act for the time being in force as well as from the imposition of any penalty under this Act with respect to the case covered by the settlement.

However, the first proviso clearly prohibits the exercise of any such power in cases where the proceedings for prosecution for any such offence have already been instituted prior to the date of receipt of the application under Section 245C. Therefore, as per Section 245H of the Income Tax Act, the Settlement Commission lacks the jurisdiction or power to grant exemption from prosecution that has already been initiated against any such assessee. There appears to be a clear statutory objective and rationale underlying the scope of power conferred upon the Settlement Commission, regarding the stage at which immunity may or may not be granted. There is third stage also i.e. not to grant immunity from prosecution under law other than the provisions of Income Tax Act, to a person, who moved an application under Section 245C on or before 01.06.2007.

Since it is an admitted position that the application under Section 245C was filed subsequent to the filing of the criminal complaint against the petitioners, there appears to be no illegality or error in the statutory order passed by the Settlement Commission. In fact, in Paragraph No.45 of the order dated 29.06.2012 of Settlement Commission, it has been categorically made clear that the immunity would apply except in respect of the prosecution proceedings already launched by the department regarding on the issue of illegal operation of the locker by the applicant/petitioner.

15. For perusal, Paragraph 45 of order dated 29.06.2012 of Settlement Commission reads as under:-

> *"The applicant has prayed for immunity from prosecution and waiver of penalties under various provisions of the Income Tax Act. In view of the cooperation extended to the Commission during hearing and on facts and circumstances of the case, immunity is hereby granted from prosecution and penalty imposable under the I.T. Act in relation to the issues arising from the application and covered by this order except in respect of prosecution proceedings already launched by the Department on the issue of illegal operation of locker by the applicant on 24.02.2009 in light of proviso to section 245H(1)."*

16. Now coming to the constitutional power vested with the High Court as well as the Apex Court, reliance placed upon by petitioners' counsel on few judgments, this Court notices that in the case of ***Vijay Krishnaswami @ Krishnaswami Vijay Kumar'***s case (supra), Paragraphs No.35 to 38 read as under:-

> *"35. Perusal of the said order makes it clear that in the*

settlement proceedings, assessee has disclosed all the facts material to the computation of his additional income and fully satisfied the provisions of Section 245H. The Commission recorded a finding that overall additional income is not on account of any suppression of any material facts and it does not disclose any variance from the manner in which the said income had been earned. As such the immunity from penalty under IT Act was granted in exercise of powers under Section 245H. From perusal of Section 245-I, it is clear that every order of settlement shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided, be reopened in any proceeding under the Act or under any other law for the time being in force.

36. In view of the foregoing discussions in conclusion we can safely hold that the prosecution lodged with the help of proviso to sub-section (1) to Section 245H was in defiance to the circular dated 24.04.2008, which was in vogue. It was the duty of the PDIT and DDIT to look into the facts that in absence of any findings of imposition of penalty due to concealment of fact, the said prosecution cannot be proved against the assessee. It seems, even after passing the order by the Settlement Commission on 26.11.2019, it was brought to the notice of the High Court, but the authorities were persistent to pursue the prosecution without looking into the procedural lapses on their part. Such an act cannot be construed in right perspective and the Revenue have acted in blatant disregard to binding statutory instructions. Such willful non-compliance of their own directives reflects a serious lapse, and undermines the principles of fairness, consistency, and accountability, which in any manner cannot be treated to be justified or lawful.

37. It must also be noted that, in terms of Section 245-I, the findings of the Settlement Commission are conclusive with respect to the matters stated therein. Once such an order was passed, it was incumbent upon the authorities to inform the High

Court that continuation of the prosecution would amount to an abuse of the process of law, in particular when the Settlement Commission did not record any finding of wilful evasion of tax by the appellant. Even otherwise, it was the duty of the High Court to examine the facts of the case in their right context and assess whether, in light of the above circumstances, the continuation of the prosecution would serve any meaningful purpose in establishing the alleged guilt. Upon a holistic consideration of the matter, we are of the view that the conduct of the authorities lacks fairness and reasonableness, and the High Court's approach appears to be entirely misdirected, having failed to appreciate the factual and legal position in right earnest.

38. In view of the foregoing discussions, we are constrained to allow these appeals setting aside the order impugned passed by the High Court. It is directed that prosecution lodged by the Revenue against the appellant shall stand quashed. In the facts and circumstances of the case as discussed hereinabove, we are inclined to impose costs against the Revenue which is quantified at Rs.2,00,000/- payable to the appellant. Pending application(s), if any, shall stand disposed of."

17. In the case of ***Satish Vohra and others*** (supra), Paragraphs No.10, 11 and 13 read under:-

"10. It is also not in dispute that the tax dispute arising from the same set of transactions was subsequently placed before the Interim Board for Settlement, Mumbai, which examined the matter in detail and settled the issue. The Board recorded a specific finding in the order dated 24.02.2023 (Annexure P-9) passed under Section 245(D) of the Income Tax Act, 1961 that the applicants/petitioners had cooperated in the proceedings, made full disclosure of income, and explained the manner in which such income had been derived. Immunity from penalty was granted to the petitioners. Immunity from prosecution was

declined not because of any specific finding of fraud or wilful concealment, but only because the criminal complaint had already been instituted before the settlement proceedings were initiated. The terms and conditions set out in therein are as under:-

> ***"18. Terms of Settlement***
>
> *The computation of income of above applicants for the different assessment years under consideration is annexed to this order as per separate Annexures.*
>
> *19. The Assessing Officer shall communicate the demand payable by way of tax and interest on the total income determined for each assessment year as per this order after giving credit of taxes and interest paid on or before the date of application and after considering the refund issued, if any, in respect of total income determined in any earlier assessment or reassessment or re-computation made for assessment years covered by the applications. The AO is directed to issue demand notice as per the provisions of section 156 rw.s 245D(6) of the Act within 7 days from the date of receipt of this order.*
>
> *20. **Waiver of interest***
>
> *The applicants have prayed for waiver of interest. However, it is well settled by the decision of the Hon'ble Supreme Court in the case of CIT vs Anjum M.H. Ghaswalla & Others (2005) 252 ITR 1 (SC) that the Settlement Commission (now, IBS) is not empowered to grant waiver / reduction of interest chargeable u/s. 234A, 234B & 234C of the Act. Accordingly, interest u/s. 234A, 234B & 234C will be levied by applying inter alia, the position of section 234B(2A) of the Act w.e.f. 01.06.2015.*
>
> *21. **Immunity from Penalty and Prosecution:***
>
> *The applicants as per Terms of settlement mentioned in SOF, have prayed for grant of immunity from levy of penalty and from prosecution under the Act. On the other hand, the Pr. CIT, in his Rule 9 report has observed that disclosure of the applicants is not true and full and therefore, their request for granting immunity from levy of penalty and prosecution has no merits.*
>
> *22. We have considered the request made by the applicants as well as objections of the Ld. PCIT. As per provisions of section 245H(1) read with section 245H(3) of the Act, the Interim Board for Settlement may grant immunity from prosecution and penalty if it is satisfied that the person making application for settlement has cooperated with the Board in the proceedings before it and*

has made full and true disclosure of its income and the manner in which such income has been derived. On examining the facts of the case on these parameters, it is noticed that the applicants have furnished all the details sought by the Board from time to time and facilitated in sorting out issues with the Department at every stage. Thus, they have cooperated with the Board in the proceedings before it. We also noticed that the applicants have fully disclosed additional income before the Board which it ought to have offered otherwise. They have also disclosed the manner in which such income has been derived. The additional income offered by the applicants is fully justified during the course of proceedings before us and we have settled the applications after making the enhancements as detailed above.

23. The additional income further determined in this order and duly agreed to by the Ld. AR were not on account of any facts which were not declared but only to take care of some explanation which could not be expressly proved and to cover some calculation mistakes and to put quietus to the matter in the true spirit of settlement. Hence, it can be said that the applicants have made true and full disclosure of their income. The applicants have also specified the manner in which such income has been derived. Thus, we are satisfied that the conditions for granting immunity from penalty under all the provisions of the Act are fulfilled in these cases. We, therefore, accept the request of the applicants and grant immunity from penalty under the Act. However, we are not in a position to accept the prayer of the applicants regarding immunity from prosecution because of the reasons given at para 12.12 to 12.12.4 of this order.

24. The immunity granted to the applicants may at any time be withdrawn, if the Board is satisfied that the applicants have in the course of the settlement proceedings concealed any particulars or materials to the settlement or have given false evidence. Thereupon, the applicants may be tried for the offence for which immunity was granted or for any other offence for which the applicants appear to have been guilty in connection with the settlement and the applicants shall also become liable to imposition of any penalty under the Act to which the applicants would have been liable had such immunity not been granted. The immunity so granted will also be withdrawn if the applicants fail to pay the additional tax and interest, if any, as stipulated in this order.

25. The applicants are allowed capitalization of the additional income disclosed before the Commission and no capitalization is allowed for further additional income

> *added in this order as discussed above.*
>
> *26. The applicants have prayed for grant of instalments for payment of tax and interest in the settlement applications. Accordingly, we consider their request and grant them two equated monthly instalments starting from March, 2023 to April, 2023.*
>
> *27. This order shall be declared void if it is subsequently found by the Board that the same has been obtained by fraud or misrepresentation of the facts within the meaning of section 245D(6) of the Act."*

11. The Hon'ble Supreme Court in ***Vijay Krishnaswami @ Krishnaswami Vijayakumar vs. Deputy Director of Income Tax (Investigation)*** *(supra) fully supports the case of the petitioners wherein it has been held that once the Settlement Commission/Board has conclusively examined the matter and recorded findings regarding disclosure and cooperation, continuation of criminal proceedings would amount to abuse of the process of law. The relevant extract thereof are as under:-*

> *"Perusal of the said order makes it clear that in the settlement proceedings, assessee has disclosed all the facts material to the computation of his additional income and fully satisfied the provisions of Section 245H. The Commission recorded a finding that overall additional income is not on account of any suppression of any material facts and it does not disclose any variance from the manner in which the said income had been earned. As such the immunity from penalty under IT Act was granted in exercise of powers under Section 245H. From perusal of Section 245-1, it is clear that every order of settlement shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided, be reopened in any proceeding under the Act or under any other law for the time being in force.*
>
> *36. In view of the foregoing discussions in conclusion we can safely hold that the prosecution lodged with the help of proviso to sub-section (1) to Section 245H was in defiance to the circular dated 24.04.2008, which was in vogue. It was the duty of the PDIT and DDIT to look into the facts that in absence of any findings of imposition of penalty due to concealment of fact, the said prosecution cannot be proved against the assessee. It seems, even after passing the order by the Settlement Commission on 26.11.2019, it was brought to the notice of the High Court, but the authorities were persistent to pursue the prosecution without looking into the procedural lapses on their part. Such an act cannot*

be construed in right perspective and the Revenue have acted in blatant disregard to binding statutory instructions. Such wilful non-compliance of their own directives reflects a serious lapse, and undermines the principles of fairness, consistency, and accountability, which in any manner cannot be treated to be justified or lawful.

37. It must also be noted that, in terms of Section 245-1, the findings of the Settlement Commission are conclusive with respect to the matters stated therein. Once such an order was passed, it was incumbent upon the authorities to inform the High Court that continuation of the prosecution would amount to an abuse of the process of law, in particular when the Settlement Commission did not record any finding of wilful evasion of tax by the appellant. Even otherwise, it was the duty of the High Court to examine the facts of the case in their right context and assess whether, in light of the above circumstances, the continuation of the prosecution would serve any meaningful purpose in establishing the alleged guilt. Upon a holistic consideration of the matter, we are of the view that the conduct of the authorities lacks fairness and reasonableness, and the High Court's approach appears to be entirely misdirected, having failed to appreciate the factual and legal position in right earnest."

12. xxx

13. Keeping in view the overall facts and circumstances of the present case, this Court is of the considered view that the continuation of criminal proceedings would serve no useful purpose and would amount to misuse of the process of law."

18. In the case of ***Nagesh Aggarwal*** (supra), Paragraph No.7 reads as under:-

"The facts in the present case are not in dispute. Admittedly, the residential and business premises of the petitioner were searched on 24.6.1999. Thereafter, notice was also issued to the petitioner on 6.1.2000 to explain his position with regard to making a false statement and for making an attempt to evade tax etc. Petitioner filed his reply to the show cause notice. However, the reply submitted by the petitioner was found to be unsatisfactory. During the pendency of the assessment proceedings before the Assessment Officer,

petitioner filed an application for settlement before the Income Tax Settlement Commission and offered undisclosed income of ` 3,55,000/- for settlement in addition to undisclosed income of ` 25,000/- offered in the block return filed before the Assessing Officer. Application moved by the petitioner was accepted and the income of the petitioner was settled at ` 3,80,000/- including ` 25,000/- offered before the Assessing Officer vide order dated 20.1.2008. However, by passing the order dated 22.1.2008, Income Tax Settlement Commission declined to grant immunity to the petitioner from penalty and prosecution. The said order was upheld in an appeal by the Commissioner, Income Tax (Appeals). Petitioner approached the Income Tax Appellate Tribunal. Vide order dated 22.3.2011 (Annexure P-4), the penalty levied by the Assessing Officer and confirmed by the Commissioner, Income Tax (Appeals), was set aside and it was observed as under:-

> *"In the present case, the assessee has returned undisclosed income of Rs. 25,000/-. He realized that the income returned by him was on lower side. He therefore, approached the Settlement Commission for settlement and in that process offered additional sum of Rs. 3,55,000/- for settlement which was also accepted by the Settlement Commission. The case of the assessee is squarely covered by the judgment dated 12.11.2008 rendered by the Hon'ble Delhi High Court in CIT Vs. Harkaran Das v. Ved Pal, ITA No. 1005/2007 (supra), cited by the ld. Counsel for the assessee. On the facts of the case as they exist on record, we are also satisfied that this is a case where the assessee has acted bona-fide and has concealed nothing, which evident from the fact that the Settlement Commission has also accepted the income offered by the assessee for settlement. In this view of the matter, we cancel the penalty levied by the Assessing Officer and confirmed by the CIR (A)."*

Admittedly, Annexure P-4 has gained finality. Since in the assessment proceedings, the penalty levied against the petitioner, has been set aside by the Income Tax Appellate Tribunal, continuation of criminal proceedings against the petitioner in relation to the same proceedings, would be nothing but an abuse of process of law.

Accordingly, this petition is allowed. Criminal complaint No. 139 dated 31.3.2000 (Annexure P-1) and orders dated 14.12.2011 (Annexure P-2) and 13.9.2013 (Annexure P-3) and all the consequential proceedings, arising therefrom, are quashed."

19. Ratio of the judgments relied upon by the petitioners' counsel along with several other precedents discussed therein, indicates that where the continuation of proceedings under penal provisions is permitted to linger, no meaningful or reasonable purpose would be served. The position might have been different, had the issue been decided at the earliest stage by this Court when it was initially assailed through instant petitions. Now, after a period of nearly 17/18 years from the filing of the complaint for non disclosure of one of the lockers, subjecting the petitioners to continued proceedings would serve no practical purpose other than remaining an academic exercise. Moreover, there is no submission by the Department that order of the Settlement Commission was ever challenged or reversed in any subsequent proceeding; or that the petitioners failed to comply with the payment of amount ordered by the Settlement Commission.

20. To the view point of this Court, the inherent power of a Constitutional Court/this Court is neither constrained nor incapacitated from examining the issue holistically to arrive at an independent conclusion, thereby fulfilling the overarching objective fro which the Income Tax Act was enacted. One of primary the purposes of penal provisions-creating a deterrent against making false statements already stands served in the present case, given that the prosecution has been pending for the last 17/18 years, despite the final payment having been made under the order of the Settlement Commission in the year 2012.

21. In the totality of the facts and circumstances and in line of the precedents relied upon by petitioners' counsel, this Court deems it appropriate to quash the proceedings i.e. Complaint No.120 dated 31.03.2009 for commission of offences under Sections 177, 181, 193, 106, 34 of Indian Penal Code (IPC) and Section 277 of the Income Tax Act, summoning order dated 31.03.2009 and order 03.12.2016 passed by the Court of learned Chief Judicial Magistrate, Ludhiana, dismissing the application for discharge and also the order dated 01.02.2018, whereby in revisional jurisdiction, the Court of Sessions dismissed the revision petition by maintaining the summoning order.

22. Petitions stand **disposed of** accordingly.

Pending miscellaneous application(s), if any, also stand disposed of.

Photocopy of this order be placed on the connected file.

(SANJAY VASHISTH)
JUDGE

09.09.2026
jitender

Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No