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

\+ CRL.M.C. 748/2025 & CRL.M.A. 3543/2025 CRL.M.A. 3544/2025 CRL.M.A. 3545/2025

M/S REGENT GARAGES PVT LTD .....Petitioner

Through: Mr. N P Sahni, Mr. Kumail Abbas, Advocates

versus

INCOME TAX OFFICE & ANR. .....Respondents

Through: Mr. Indruj Singh Rai, SSC, Mr. Sanjeev Menon, JSC, Mr. Rahul Singh, JSC, Mr. Anmol Jagga, Mr. Gaurav Kumar, Advocates

CORAM:
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

O R D E R

% 04.02.2025

1. The present petition has been filed seeking the following relief: -

> (i) Quash and set aside the impugned complaint dated 22.12.2023 filed by Respondent No.1 against the Petitioner vide Ct. cases no. 2924/2023 in the court of Ld. Additional Chief Metropolitan Magistrate (ACMM), Tis Hazari Courts, Delhi u/s. 276B r.w.s 278B/278E of the Act by invoking the inherent powers of this Hon'ble Court u/s. 482 of the Cr.P.C/528 of the BNSS.;

2. Learned counsel for the Petitioner states that the present complaint pertains to financial year of 2018-19.

3. He states that the records evidences that the TDS along with the statutory interest stood paid even before the show cause notice was issued by the Income Tax Department. He states that in view of the departmental

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circulars no prosecution could have been initiated after the receipt of the said amount.

4. He relies upon the judgment passed by the High Court of Jharkhand in **Dev Multicom (P.) Ltd. v. State of Jharkhand 2022 SCC OnLine Jhar. 537** which has been upheld by the Supreme Court in SLP (Criminal) No.3073/2023 decided on 20.03.2023.

5. He has also placed reliance on a recent judgment passed by the High Court of Bombay in **Hemant Mahipatray Shah and Anr. v. Anand Upadhyay and Anr. 2024 SCC OnLine Bom 2618** and more specifically paragraphs 35 therein.

6. He states that the reliance placed by the Income Tax Department on the judgment of Supreme Court in **Madhumilan Syntex Ltd. v. Union of India**; **2007 (11) SCC 297** has been duly considered by the High Court of Bombay in the **Hemant Mahipatray Shah (supra)** judgment and negated.

7. Issue notice.

8. Learned counsel for the Respondents accepts notice. He opposes the petition by placing reliance on the judgment of **Madhumilan Syntex Ltd.** (supra) as well as the Circular No. 24 dated 09.09.2019.

9. He seeks and is granted time to file the documents to be relied upon within a period of four weeks.

10. Rejoinder thereto, if any, be filed within four (4) weeks thereafter.

11. Learned counsel for the Petitioner states that the proceedings before the Trial Court is next listed on 07.02.2025.

12. In view of the submissions recorded hereinabove, the personal presence of the two Directors of the Petitioner (company), who are arrayed as accused in the complaint is exempted until the next date of hearing.

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13. It is clarified that the proceedings shall otherwise proceed in the complaint cases before the Trial Court.

14. List on **13.05.2025** at **04:00 P.M**.

15. Counsel for parties will file a 1-page note of arguments, synopsizing their contentions, with reference of relevant PDF page numbers of the Court file, along with list of citations, on which they wish to reply upon, at least a week before the next date of hearing, after exchanging copies *inter se* counsels.

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 4, 2025/mt/ms

Click here to check corrigendum, if any

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