IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CRIMINAL MISC.APPLICATION (FOR QUASHING & SET ASIDE FIR/ORDER) NO. 3681 of 2026

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M/S. BMS PROJECTS PVT. LTD. & ANR.
Versus
STATE OF GUJARAT & ORS.
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Appearance:
MR ANIRUDH N SUCHAK(10768) for the Applicant(s) No. 1,2
MR DHRUMIL M SUCHAK(11880) for the Applicant(s) No. 1,2
MR JAY MEHTA, APP for the Respondent(s) No. 1
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CORAM:**HONOURABLE MRS. JUSTICE M. K. THAKKER**

Date : 19/08/2026

ORAL ORDER

1. Learned Advocate Mr. Suchak for the applicants submits that impugned complaint has been filed under Section 276B read with Section 278B of the Income Tax Act, wherein the present applicant was arraigned as accused, being a Director of accused no.1 company. It is submitted that as per the allegation made in the complaint, the applicant had neglected to pay the income tax deducted at source within the stipulated period without any reasonable cause, and deposited beyond the stipulated period stated in the table produced in the complaint.

2. By drawing the attention of this Court to the relevant provisions, more particularly 276B of the I.T. Act, which provides that, in the event of failure to pay the tax to the credit of Central Government under Chapter XII-D or Chapter XVII-B, the person can be liable for the offense, and he can be

punished with rigorous imprisonment for a term which shall not be less than three months, but which may extend to seven years and with fine. It is submitted that by no stretch of imagination, it can be said that the applicant had failed to pay the tax. At the most, it can be presumed that there was a delay in making the payment of the tax deducted. It is submitted that so far as delay aspect is concerned, the reply to the notice which was given by the present applicant dated 08.10.2024 suggests that applicant was suffering from oral cancer since 2018, and four surgeries were done.

3. It is further submitted that for the assessment year 2022-23, for which the delay has been alleged in making the payment of tax, the present applicant had undergone treatment. In that background, the impugned prosecution can be said to be abuse of process of law. It is submitted that even otherwise also, by issuing the process, no prima-facie reasons have been recorded by the learned Court, and in that background, it can be said that without application of judicial mind, the impugned process has been issued.

4. Considering the above submission, let Notice be issued, making it returnable on 02.11.2026. Learned APP Mr. Jay Mehta waives service of notice on behalf of respondent - State.

5. Ad-interim relief in terms of para-7(C) is granted qua the present applicant.

(M. K. THAKKER,J)

AMIT ITALIAN