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Present: Mr. Abhinav Bajaj with Mr. John Thomas for the petitioner.

+CrI.M.C. No. 2720/2004

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Income-Tax Officer has filed criminal complaint against four accused persons under 276B of the Income-Tax Act, 1961. The complaint is with regard to assessment year 1979-80. It is alleged that in the complaint that during this year M/s. Maheshpur Holding Ltd., accused No.1 while paying interest to M/s. PNB Finance Ltd. deducted the tax at source but did not deposit the same with the Income-Tax Authorities. Accused No.2 to 4 are arraigned in the said complaint as directors of the accused No.1, which includes the petitioner, who is accused No.4. The petitioner, on receipt of the summoning order in the said case, applied for compounding of offence under Section 279(2) of the Income-Tax Act. While examining this case the Income-Tax Department detected the mistake in the complaint filed by it. It was found that the relevant assessment year was 1975-76 and not 1979-80. The petitioner has



produced copy of letter dated 31.1.2002 written by the Income-Tax Officer to the Commissioner of Income-Tax, Delhi II, New Delhi, pointing out this mistake. This is one of the grounds on which the petitioner has sought quashing of the summoning order. It is also argued that the petitioner was inducted as director in the year 1978 and was not director of the company during the relevant period, i.e. 1975-76.

Notice in this petition was issued and repeated opportunities were given to the Income-Tax Department to file reply so that the aforesaid position could be clarified. Last opportunity was granted on 12.1.2006 and the matter was adjourned to 23.5.2006. Not only reply has not been filed in spite of this opportunity, nobody appeared on 23.5.2006. Case was renotified for today. Even today there is no appearance. In view of there being no rebuttal of the aforesaid averments in the petition and the communication dated 31.1.2002 of the Income-Tax Officer to the Commissioner of Income-Tax, which is not disputed, it is clear that the complaint alleging non-deposit of TDS for the assessment year 1979-80, is wrongly filed inasmuch as the correct accounting year was 1975-76. The



summoning order qua the petitioner on this ground itself is quashed and  
the complaint qua him is dismissed.

The petition is disposed of.

A handwritten signature in black ink, appearing to read 'A.K. Sikri', written over a horizontal line.

A.K. SIKRI, J.

November 30, 2006

hp.