M/s Flamingo Breweries Pvt. Ltd. & 2 Ors. (Sanju Phangcho and Bijoy Phangcho) v. Income Tax Department

Crl.Pet./896/2022, Crl.Pet./165/2022 & Crl.Pet./168/2022

2026:GAU-AS:12880 | Crl.Pet./896/2022 with Crl.Pet./165/2022 & Crl.Pet./168/2022 (Gau HC, decided 02.09.2026) | 2026-09-02

Three prosecution proceedings quashed in the particular reassessment and duplicated-director-complaint setting.

Income-tax Act,1961: sections 276D, 277, 278B, 278E

Gauhati High Court | Single Judge Bench | Justice Robin Phukan

Assessment years: 2016-17

01 FACTS OF THE CASE

Flamingo Breweries and its directors challenged three complaint proceedings under sections 276D and 277 through Criminal Petitions 896,165 and 168 of 2022. The AY 2016-17 assessment had increased income following non-compliance and accounting discrepancies. The appellate proceedings led to a Tribunal remand and a fresh assessment at lower income. Separate complaints had also been brought against the directors.

Source: PDF pp.1–12, captions and history

02 DISCUSSION BY THE HON'BLE COURT

The Court discussed the independence of assessment and prosecution, distinguishing merits exoneration from technical relief. It rejected the double-jeopardy argument and held that the section 278E presumption belonged to the trial stage, not an AO determination before complaint. In its application, it characterised the appellate result as merits-based and treated the fresh assessment and duplicated individual-director complaints as grounds showing abuse.

Source: PDF pp.13–21, paras 16–25.1

03 JUDICIAL DECISION

All three proceedings were quashed, with parties bearing their own costs.

Source: PDF pp.21–22, para 26

04 OUTCOME / IN WHOSE FAVOUR

Petitioners obtained quashing in the stated circumstances; the judgment does not make every assessment remand a bar to prosecution.

Source: PDF pp.20–22, paras 25–26

05 EXPERT COMMENTS

AKHB Expert Comments — editorial analysis, distinct from the Court's findings.

The Court's characterisation must be read with the quoted remand: The reproduced Tribunal direction called for a fresh opportunity and reconciliation; the High Court later characterised the result as merits-based exoneration. That tension and the judgment's technical/merits distinction prevent treating every remand as extinguishing prosecution. (PDF pp.7–8,18–21)

Double jeopardy and culpable-state arguments did not both succeed: The Court rejected the constitutional double-jeopardy contention. It also placed the section 278E presumption at the trial stage rather than requiring the AO to establish culpability before complaint. Neither proposition was a general bar to prosecution. (PDF pp.15–16,20, paras 17,24)

The additional director complaints created a separate problem: The Court recognised a complaint against the company and responsible directors under section 278B, but objected to the additional individual complaints in this setting without the company. This addresses the particular duplication, not general director immunity. (PDF p.21, para 25.1)

Internal figures require the underlying record: The source prints inconsistent payment figures and Tribunal dates. Verify these against underlying records before reliance. The clear result is quashing of three proceedings, not a general rule that payment ends prosecution. (PDF pp.7–9,12,20–22)

Source: PDF pp.7–8,18–21

SOURCE & VERIFICATION

Original judgment PDF (20260901_GAHC010036302022.pdf)

All 22 original pages read and visually reviewed; source hash verified.

Source and all five panels checked on 21 October 2026.

Open cited source rendition

STATUTORY SCOPE

Only provisions expressly stated in this order are indexed. Subsequent treatment and current law have not been independently verified.

LATER TREATMENT

Source checked 2026-10-21. Subsequent proceedings and current judicial treatment have not been independently verified.

AI DISCLOSURE

AI-assisted research checked against the identified source. Extraction, interpretation or omission errors remain possible. Source review does not mean independent approval by a practising professional. Verify every material statement against the complete original judgment.

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