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Order QR

CRL RC No. 614 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 24-09-2026

PRONOUNCED ON: 29-09-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL RC No. 614 of 2026

CNR:{HCMA010192222026}



Case QR

Manivannan Umarani
PAN No. ABLPU0578K,
No. 60, G-2, Shenbaga Apartments,
3rd Street, Lakshmi Nagar,
Madipakkam, Chennai -600 091.

..Petitioner(s)

Vs

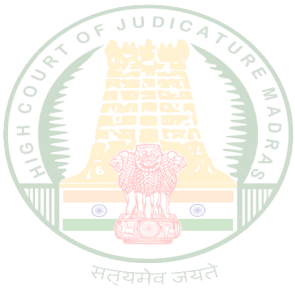
The Income Tax Officer
Non Corporate Ward-14(4),
4th Floor Cabin, Annexe Building, No.121,
M.G.Road, Nungambakkam,
Chennai 600 034.

..Respondent(s)

Criminal Revision Case filed under Section 438 r/w 442 of the BNSS, to set aside the conviction and sentence dated 30.10.2025 awarded in Crl.A.No.11 of 2025 on the file of the learned Principal Sessions Judge, Chennai, confirming the conviction and modifying the sentence passed by the learned trial Judge in the judgment rendered on 22.12.2021 in EOCC.No.424 of 2017 on the file of the learned Additional Chief Metropolitan Magistrate (EO-II), Egmore, Chennai.

For Petitioner(s): Mr.B.Shruthan,
Legal Aid Counsel

For Respondent(s): Ms.M.Sheela, Sr.Standing Counsel
Mr.H.Siddarth, Jr.Standing Counsel
For IT Dept.



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The petitioner was found guilty of the offence under Section 276CC of the Income Tax Act, 1961 [in short, '*the Act*'] and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.50,000/-, in default to suffer simple imprisonment for three months by the learned Additional Chief Metropolitan Magistrate (EO-II), Egmore, by judgment dated 22.04.2021 in EOCC No.424 of 2017.

2. On appeal, the appellate Court viz., the Principal Sessions Court, Chennai, confirmed the finding of guilt and reduced the sentence for the said offence to three months rigorous imprisonment and confirmed the fine amount and the default sentence imposed by the learned Magistrate by the judgment dated 30.10.2025 in Crl.A.No.11 of 2025.

3. The Criminal Revision challenges the finding of guilt and sentence imposed on the petitioner.

4. The respondent herein filed a complaint alleging that during the Financial Year 2013-2014 [Assessment Year 2014-2015], the petitioner



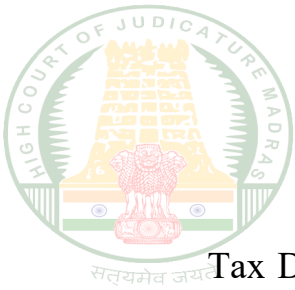
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received rent of Rs.55,50,000/- and sold an immovable property for a consideration of Rs.74,00,000/-; that it was detected that the petitioner did not file her return of income for the said Assessment Year 2014-15 under Section 139(1) of the Act on or before 31.07.2014; that therefore, a show cause notice was issued on 26.07.2017 to the petitioner to show cause why proceedings under Section 276CC of the Act should not be initiated; that the petitioner sent a reply on 07.08.2017 stating that she failed to file her return of income, as her husband was in Dubai and visited India only once a year and that she is entitled to refund of Rs.37,000/-; and that since the reasons for non-filing were not satisfactory, the petitioner was liable to be prosecuted for the offence under Section 276CC of the Act.

5. Before the trial Court, the respondent examined the Income Tax officer as PW1 and marked Ex.P1 to Ex.P4. The petitioner examined herself as DW1 and marked Ex.D1 to Ex.D8. The trial Court, after considering the evidence on record and the legal submissions made on either side, held that the petitioner ought to have filed her return of income for the said Assessment Year, since it was detected by the Income



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Tax Department that she had earned the rental income of Rs.55,50,000/- and she had received Rs.74,00,000/- as sale consideration in respect of a property.

6. The trial Court had further observed that though the department had not issued any notice either under Section 142 of the Act or under Section 148 of the Act, for scrutinising assessment under Section 143 of the Act, since the detection was made belatedly, it would not absolve the petitioner of her liability to file return of income; and that the petitioner had not rebutted the statutory presumption under Section 278E of the Act, which permits the Court to presume the existence of culpable mental state.

7. The appellate Court, while holding the finding of guilt as stated above, had observed that the respondent had not established the quantum of tax payable by the petitioner and hence, the petitioner is only liable for the minimum sentence provided under Section 276CC of the Act.

8. The learned counsel Mr. Prakash Koklaney, who had originally filed this revision, was continuously absent and hence, this Court



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appointed Mr. B.Shruthan as legal aid counsel, as this Court has to decide the case on merits being a revision against conviction.

9 (i). Mr. B. Shruthan, the learned counsel, would submit that no prosecution under Section 276CC of the Act would lie if the tax payable by a person, not being a company, on the total income determined on the regular assessment does not exceed Rs.3,000/-; and that in the absence of any determination by the department as to the tax payable by the petitioner, it has to be presumed that there is no tax payable by the petitioner and hence, the petitioner is not liable for prosecution.

(ii) The learned counsel also pointed out to Ex.D8, acknowledgment for the return of income filed by the petitioner claiming refund of Rs. 37,000/-, which according to her was the excess tax deducted at source.

(iii) The learned counsel relied upon the judgment of the Hon'ble Supreme Court in *Guru Nanak Enterprises v. Income Tax Officer*¹, the judgment of this Court in *B.Mohammad Iqbal v. Assistant*

¹ 2005(10) SCC 451



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Commissioner of Income Tax², and the judgment of the Bombay High Court in **Rajesh Somandas Sachdev v. Income Tax Officer**³, in support of the submission that where the tax payable is either nil or is less than Rs.3,000/- or the Assessee is entitled to refund, then no prosecution would lie for non-filing of the return.

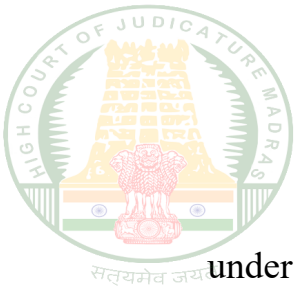
10. (i) Mrs.Sheela, the learned senior standing counsel for the respondent, however would submit that the violation was not detected immediately; that the same was detected by the department only in the year 2017; that therefore, the assessments were not made in terms of Section 143 or Section 144 of the Act since it was beyond the period of 21 months and that because there was no assessment order, it cannot be said that the petitioner was not guilty of the offence under Section 276CC of the Act.

(ii) The learned counsel relied upon the judgment of the Hon'ble Supreme Court in **Vinubhai Mohanlal Dobaria v. Chief Commissioner of Income Tax & another**⁴, in support of her submission that an offence

² 2026(5) TMI 115

³ 2026(7) TMI 1729

⁴ Civil Appeal No.1977 of 2025 [arising out of SLP © No.20519 of 2014]



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under Section 276CC of the Act is committed as soon as there is a failure on the part of the Assessee in filing the return of income within the due date and subsequent filing of the return of income by the Assessee before the prosecution is initiated, would not absolve the assessee.

11. Considered the rival submissions made on either side, and perused the impugned judgments and the evidence.

12. The admitted facts are that the petitioner along with her husband had sold the property belonging to them during the assessment year 2014-15, for a sale consideration of Rs.74 lakhs. The petitioner had not filed any return for the said assessment year on or before 31.7.2014. PW1, in his cross-examination, would state that the violation was detected from the Assessive Information Monitoring Systems [AIMS]; that they had not verified the payment of rent with the tenants; and that they have not collected any documentary proof on this aspect.

13. Be that as it may. It is not in dispute that no prosecution would lie under Section 276CC of the Act, if the tax payable by any person not



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being a company on a total income determined on regular assessment does not exceed Rs.3,000/-, as could be seen from the proviso (ii)(b) to Section 276CC of the Act, as it stood when the offence was said to have been committed.

14. According to the learned senior standing counsel appearing for the Income Tax Department, the offence of non-filing of returns was detected much later; that the total income could not be determined on regular assessment and therefore, the tax payable was not determined; and that cannot be a ground to exonerate the petitioner for the offence under Section 276CC of the Act.

15. A reading of Section 276CC of the Act would suggest that the quantum of the tax payable by the Assessee is relevant for the purpose of prosecuting the petitioner and for determining the punishment, for the offence under Section 276CC of the Act. Firstly, the sentence of imprisonment for the said violation would depend on the quantum of tax payable by the Assessee. If the tax payable exceeds Rs.1 lakh prior to the amendment in 2012 and exceeds Rs. 25 lakhs after the amendment, the



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sentence of imprisonment would be not less than six months and not exceeding seven years and in any other case, it would not be less than three months and not exceeding two years. Secondly, as stated above, proviso (ii)(b) to Section 276CC of the Act bars any prosecution if tax payable does not exceed Rs.3,000/- before the amendment in the year 2019 and Rs.10,000 after the amendment by the Finance Act 140 of 2020, with effect from 01.04.2020.

16. It is the specific case of the petitioner that she is not liable to pay any tax and she had filed her return of income claiming refund of Rs.37,000/-. The claim of the petitioner that she is entitled to refund has not been accepted by the department. At the same time, in the absence of any assessment in any form made by the department with regard to the tax payable by the petitioner, the prosecution under Section 276CC of the Act, would be misconceived. It is no doubt true that the violations were detected beyond the period of 21 months and therefore, the assessment could not be made in terms of Section 143 or 144 of the Act.

17. In ***Guru Nanak's case [supra]***, the tax was determined by the department as Rs.1360/- and therefore, the Hon'ble Supreme Court held



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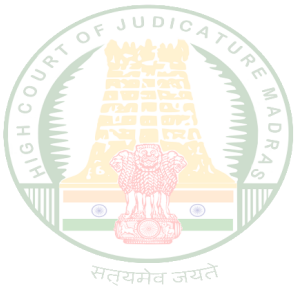
that prosecution under Section 276CC of the Act, is not warranted. The relevant paragraph reads as follows:

“5. It appears to us that the case of the appellant is clearly covered by proviso (ii)(b) of Section 276-CC. In the instant case as noticed, the total tax liability of the appellant was finally assessed at Rs 1360. Under Section 276-CC proviso (ii)(b), shorn of unnecessary details, a person shall not be proceeded against under this section for failure to furnish in due time the return of income if the tax payable by him on the total income determined, as reduced by advanced tax, if any, paid, and any tax deducted at source, does not exceed Rs 3000. As noticed earlier, the appellant had disclosed a tax liability of Rs 644 which on final assessment was determined as Rs 1360.”

18. Similarly, in ***B.Mohammad Iqbal's case [supra]***, this Court had held as follows:

14. It is relevant to rely upon the proviso of Section 276(CC) (ii)(b) and the same is extracted hereunder:

“ b. The tax payable by such person, not being a company on the total income determined on regular assessment, as reduced by the advance tax or self-assessment tax, if any paid before the expiry of the assessment year, the expiry of the assessment year and any tax deducted or collected at source does not exceed ten thousand Rupees.



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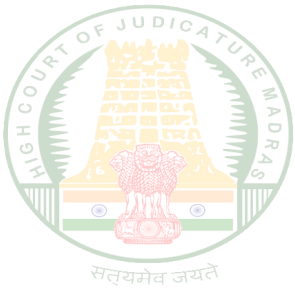
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15. *In view of the above proviso it is only in those cases where the liability is more than Rs. 3,000/- a person shall be liable to be prosecuted. In the absence of any proceeding to make the regular assessment to the petitioner the initiation of prosecution is void. Further the [Section 271\(f\)](#) of the Act provides for penalty for failure to furnish return of income and the same has to be initiated against the petitioner for non filing of returns within the due date. In the case of [K.C.Builders Vs Assistant Commissioner of Income Tax](#) reported in [2004] 135 Taxman 461 (SC) it is held as follows:*

26. *The Assistant Commissioner of Income-Tax cannot proceed with the prosecution even after the order of concealment has been set aside by the Tribunal. When the Tribunal has set aside the levy of penalty, the criminal proceedings against the appellants cannot survive for further consideration. In our view, the High Court has taken the view that the charges have been framed and the matter is in the stage of further cross-examination and , therefore the High Court is fallacious. In out view, if the trial is allowed to proceed further after the order of the Tribunal and the consequent cancellation of penalty, it will be an idle and empty formality to require the appellants to have the order of Tribunal exhibited as a defence document inasmuch as the passing of the order as aforementioned is unsustainable unquestionable.*

19. In ***Vinubhai Mohanlal Dobaria's case [supra]*** the Hon'ble Supreme Court held as follows:



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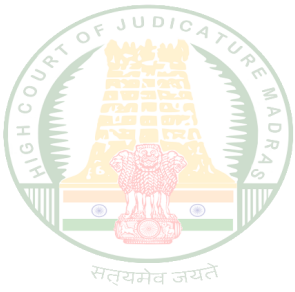
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“What is discernable from the aforesaid decision is that an offence under Section 276CC could be said to have been committed as soon as there is a failure on the part of the assessee in furnishing the return of income within the due time as prescribed under Section 139(1) of the Act. Subsequent furnishing of the return of income by the assessee within the time limit prescribed under sub-section (4) of Section 139 or before prosecution is initiated does not have any bearing upon the fact that an offence under Section 276CC has been committed on the day immediately following the due date for furnishing return of income.”

That was not the case where the assessee claimed that he was not liable to pay tax. In that case, the assessee was liable to pay tax of Rs. 2,78,740/-. Further, the Hon'ble Supreme Court had no occasion to consider the question as to whether the proviso (ii)(b) to Section 276CC of the Act, would be a bar for prosecution for the offence under Section 276CC of the Act.

20. Hence, this Court is of the view that the aforesaid judgment relied upon by the learned counsel for the department in ***Vinubhai Mohanlal Dobaria's case [supra]*** would not be of any avail to the respondent.



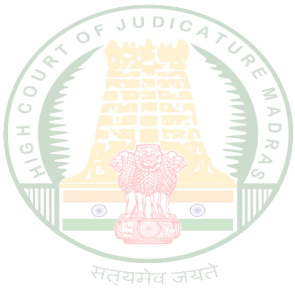
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21. But, in a given case, where it is shown in the complaint that the assessee was due to pay tax (whether there was any assessment or not), then the burden would be on the assessee to prove otherwise. But, in this case, the respondent had not even stated that the petitioner/assessee was liable to pay tax. Even assuming that the assessment is not a *sine qua non* for prosecuting a person under Section 276CC of the Act, in this case, the petitioner herein has sent a reply to the respondent that she had jointly purchased a property along with her husband; that her husband had funded for purchase and also received the sale consideration at the time of sale; and that the petitioner had no other source of income.

22. The statutory presumption under Section 278(E) of the Act, has been rebutted by the petitioner by examining herself as DW1 and also by filing the defence documents, which disclose that the property was jointly purchased by the petitioner and her husband and also that they had obtained loan for the purpose of purchase of the property. There has been no intention to evade any tax. In such circumstances, this Court is of the view that it cannot be held in the facts of the case that the non-filing of the return was wilful.



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23. Therefore, for all the above reasons this Court is of the view that the impugned judgment holding the petitioner guilty of the offence under Section 276CC of the Act, is liable to be set aside.

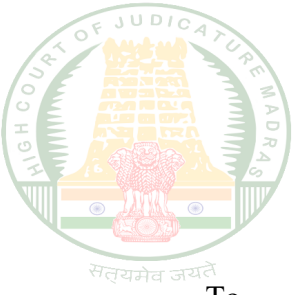
24. Accordingly, the Criminal Revision case is allowed. The impugned judgments of the Courts below convicting and sentencing the petitioner for the offence under Section 276CC of the Act, are set aside. The petitioner is acquitted of the charge under Section 276CC of the Act.

25. This Court records its appreciation for the assistance rendered by Mr. B.Shruthan, learned counsel appointed by this Court for the petitioner. The High Court Legal Services Committee, Chennai, is directed to pay a sum of Rs.10,000/- as remuneration to the legal aid counsel.

29-09-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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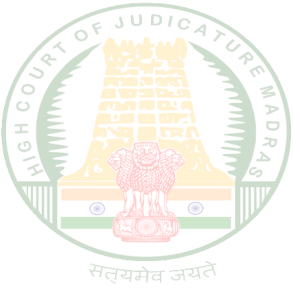
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To

1. The Principal Sessions Judge,
Chennai,
2. The Additional Chief Metropolitan Magistrate (EO-II),
Egmore, Chennai.
3. The Income Tax Officer
Non Corporate Ward-14(4),
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M.G.Road, Nungambakkam, Chennai 600 034.
4. The Secretary,
High Court Legal Services Committee,
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SUNDER MOHAN J.

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**Pre-delivery order in
CRL RC No. 614 of 2026**

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