WEB COPY

Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2026

CORAM:

THE HONOURABLE JUSTICE G.K. ILANTHIRAIYAN

CRL OP No. 11342 of 2026
and
Crl.M.P. Nos. 8064 & 8161 of 2026

Case QR

CNR: {HCMA010759272026}

1.Vicoans Infrastructure And Environment
Engineering Private Limited
PAN-AACCV4087H,
Rep by its Director T.Elayaraja,
No.4, Loop Street, CIT Nagar,
Chennai 600 035.

2.M.T.Elayaraja,
Director, Vicoans Infrastructure And Environment
Engineering Private Limited,
No.4, Loop Street, CIT Nagar,
Chennai 600 035.

..Petitioner(s)

Vs.

The Deputy Commissioner of Income Tax
Corporate Circle - 3(2),
Room No.414,
Wanaparthy Block,
Aayakar Bhavan,
No.121, Mahatma Gandhi Road,
Chennai.

..Respondent(s)

PRAYER: To call for the records in EOC No.425 of 2017 before the Court of the Additional Chief Metropolitan Magistrate (Economic Offences) Egmore, Chennai and quash the same and thus render justice.

https://www.mhc.tn.gov.in/judis (Uploaded on: 25/11/2026 11:23:11 am)

WEB COPY

For Petitioner(s): Mr.P.H.Aravind Pandian, Senior Counsel
for Abishek Jenasenan Aparajitha
Vishwanath
Sneha Parthasarathy
Vishvak Sunil

For Respondent(s): M/s. M.Sheela,
Special Public Prosecutor for Income Tax.

O R D E R

This petition has been filed to quash the proceedings in EOC No.425 of 2017 before the Court of the Additional Chief Metropolitan Magistrate (Economic Offences) Egmore, Chennai.

2.The petitioners are accused in the complaint lodged by the respondent for the offence punishable under Section 276CC of the Income Tax Act, 1961 for the assessment year 2014-15 (Accounting year ending 31.03.2014) alleging that the accused had not filed any return of income for the assessment year 2014-15 which he ought to have filed on or before 30.09.2014 as per Section 139(1) of the Income Tax, 1961 and further alleged that on verification from the database, the accused made transaction during the financial year 2013-14 and he had received substantial income of Rs.88,00,490/- for which TDS has been deducted under Section 41A of the Income Tax Act and also have sold immovable property to the tune of Rs.11,59,85,320/-. Therefore, the accused were

https://www.mhc.tn.gov.in/judis (Uploaded on: 25/11/2026 11:23:11 am)

WEB COPY

served with show cause notice dated 25.07.2017. On receipt of the same, the accused also sent reply stating that the reason for non filing of return of income for the assessment year 2014-15 is that there was a loss and hence, it cannot be filed in time. However, not satisfying with the reply of the accused, the respondent filed complaint and the same has been taken cognizance.

3.The learned Senior Counsel appearing for the petitioners submitted that the assessment proceedings initiated by the department itself has resulted in determination of nil taxable income and nil tax liability. The assessment order does not record any belated payment or any tax paid by the accused. Therefore, no penalty proceedings have been initiated. Hence, continuation of complaint, having ended with no taxable income surviving is arbitrary and is liable to be set aside.

4.On perusal of the counter and the submissions made by the learned Special Public Prosecutor appearing for the respondent, it is revealed that the contention of the accused that statutory threshold of Rs.3,000 under the proviso to Section 276CC is attracted. Clause (ii)(a) of the proviso of Section 276CC protects only a person who furnishes the return before the expiry of the assessment year namely 31.03.2015. The Hon'ble Supreme Court has held in the case of **Sasi Enterprises v.**

https://www.mhc.tn.gov.in/judis (Uploaded on: 25/11/2026 11:23:11 am)

WEB COPY

ACIT, (2014) 361 ITR 163 that assessee is under a statutory obligation to file return under Section 139(1) and this obligation is independent of the assessment so that even a best Judgment assessment under Section 144 does not nullify it. The pendency or outcome of assessment proceedings is no bar to prosecution under Section 276CC.

5.A perusal of the assessment order revealed that the total income of the assessee is nil. Therefore, no tax liability arises for the assessment year 2014-15. The prosecution initiated by the respondent is primarily on the allegation that the accused had substantial taxable income and willfully failed to file return of income in order to evade tax. However, the authorities concerned, from the income tax department passed assessment order after examination on the very same transactions, relied upon by the respondent and determined that no taxable income exists and the essential ingredient of willful failure to pay tax under section 276CC is rendered wholly unsustainable. Therefore, the subsistence of the prosecution, it appears by reason that subsequent adjudication under the income tax act, continuation of proceedings amounts to abuse of process of law. In the absence of subsisting tax liability or concealment, the prosecution cannot be permitted to proceed on a financial premise that has already been adjudicated before the income tax department itself.

https://www.mhc.tn.gov.in/judis (Uploaded on: 25/11/2026 11:23:11 am)

WEB COPY

Hence, the very foundation of prosecution under Section 276CC stands extinguished in view of the statutory assessment order dated 21.03.2022 passed by the income tax department for the assessment year 2014-15. Further, there is no appeal against the assessment order passed by the income tax department. Therefore, the complaint does not disclose any material to demonstrate any wilful or deliberate intent to evade tax. Hence, the entire proceedings initiated under Section 276CC cannot be sustained and liable to be quashed.

6.Accordingly, this petition is allowed and the proceedings in EOC No.425 of 2017 before the Court of the Additional Chief Metropolitan Magistrate (Economic Offences) Egmore, Chennai is hereby quashed. No costs. Consequently, the connected miscellaneous petitions are closed.

17-11-2026

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

https://www.mhc.tn.gov.in/judis (Uploaded on: 25/11/2026 11:23:11 am)

WEB COPY

G.K. ILANTHIRAIYAN, J

ay

To

1.The Deputy Commissioner of Income Tax
Corporate Circle - 3(2),
Room No.414,
Wanaparthy Block,
Aayakar Bhavan,
No.121, Mahatma Gandhi Road,
Chennai.

2.The Additional Chief Metropolitan
Magistrate (Economic Offences),
Egmore, Chennai

3.The Special Public Prosecutor,
Income Tax, High Court of Madras,
Chennai.

CRL OP No. 11342 of 2026
and
Crl.M.P. Nos. 8064 & 8161 of 2026

17.11.2026

https://www.mhc.tn.gov.in/judis (Uploaded on: 25/11/2026 11:23:11 am)