IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No. 12071 of 2025 and
Crl.MP.No.7989 of 2025

1.M/s.KMA Finished Leather Private Limited,
(PAN:AAACK2950L) Rep by its Directors
Ramajayam – Director
Geetha Mohan – Director
Having registered office at:
No.124, Old Mahabalipuram Road,
Kandan Chavidi, Chennai 600 096
2.Ramajayam
3.Geetha Mohan .... Petitioners

Vs

The Deputy Commissioner of Income Tax,
Central Circle-1(2), Investigation Building,
Nungambakkam Chennai 600 034 .... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for records and quash the complaint in EOCC.No.6 of 2025 on the file of the Additional Chief Metropolitan Magistrate (Economic Offences)-II, Egmore, Chennai.

For Petitioners : Mr.K.Suresh Babu

For Respondent : Mrs.M.Sheela,
Special Public Prosecutor
for Income Tax

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in EOCC.No.6 of 2025 on the file of the Additional Chief Metropolitan Magistrate (Economic Offences)-II, Egmore, Chennai

2. The case of the prosecution is that as per the return of the income filed by the first petitioner, the total tax liability was Rs.1,36,62,488/- and the self-assessement tax to be paid at the time of filing of returns was to the tune of Rs.1,34,86,830/-. However, the accused filed return of income on 29.12.2023 without paying the admitted tax liability.

3. The learned counsel for the petitioners contended that when the first petitioner filed return of income and paid the entire demand made by the respondent, the petitioners are not liable to be punished under Section 276 (c) (2) of Income Tax Act.

4. Heard, the learned counsel appearing on either side and perused the materials available on record.

5. On perusal of the documents, it is seen that the first

petitioner paid tax as demanded by the respondent and the respondent also acknowledged the receipt of tax. It is relevant to extract the provision under Section 276 (c) (2) of the Income Tax Act, 1995 as follows:

> *?If a person wilfully attempts in any manner whatsoever to evade the payment of any tax, penalty or interest under this Act, he shall, without prejudice to any penalty that may be imposable on him under any other provision of this Act, be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and shall, in the discretion of the court, also be liable to fine.*
>
> *Explanation - ? For the purpose of this section, a wilful attempt to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof shall include a case where any person;*
>
> *(i)has in his possession or control any books of account or other documents (being books of account or other documents relevant to any proceeding under this Act) containing a false entry or statement; or*
>
> *(ii) makes or causes to be made any false entry or statement in such books of accounts or other documents; or*
>
> *(iii)wilfully omits or causes to be omitted any relevant entry or statement in such books of account or other documents; or*
>
> *(iv) causes any other circumstance to exist which*

will have the effect of enabling such person to evade any tax, penalty or interest chargeable or imposable under this Act or the payment thereof.

6. From the reading of the above provision to punish the accused, there must be wilful attempt to evade payment of tax, he must be in possession of the book with false entries, the person should have made false entries in the book of accounts and omitting any entry in the statement of accounts. The petitioners voluntarily disclosed the undisclosed income to the respondent on the inspection conducted under Section 132 of the Income tax Act, 1961. Therefore, there is no intention from the petitioners for willful evading of payment of tax. Therefore, the petitioners had no wilful intention to evade tax as alleged by the respondent.

7. That apart, the petitioners had paid the entire tax amount and the respondent had also acknowledged the same. Therefore, the offence under Section 276 (c) (2) of the Income Tax Act is not at all attracted as against the petitioners herein, and the entire criminal proceedings pending against the petitioners is nothing but clear abuse of process of law. As such it cannot be sustained as against the petitioners and it is liable to be

quashed.

8. In view of the above discussion, this criminal original petition is allowed. Accordingly, the entire proceedings in EOCC.No.6 of 2025 on the file of the Additional Chief Metropolitan Magistrate (Economic Offences)-II, Egmore, Chennai, is quashed. Consequently, connected miscellaneous petition is closed.

24.04.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
lok

G.K.ILANTHIRAIYAN, J.
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To
1.The Additional Chief Metropolitan Magistrate (Economic Offences)-II, Egmore, Chennai.
2.The Deputy Commissioner of Income Tax,
Central Circle-1(2), Investigation Building,

Nungambakkam Chennai 600 034
3.The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.12071 of 2025

24.04.2025