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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 09th July, 2025

+ CRL.L.P. 280/2016

THE PR. COMMISSIONER OF INCOME TAXPetitioner

versus

PRABODH KUMAR TIWARIRespondent

With

CRL.L.P. 281/2016, CRL.L.P. 282/2016, CRL.L.P. 283/2016,
CRL.L.P. 284/2016, CRL.L.P. 285/2016, CRL.L.P. 286/2016

For Petitioner: Mr. Gaurav Gupta, SSC with Mr. Shivendra Singh, JSC, Mr. Yojit Pareek, JSC and Mr. Surya Jindal, Advocates.

For Respondent: Mr. Lav Dhawan, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

CRL.L.P. 280/2016, CRL.L.P. 281/2016, CRL.L.P. 282/2016, CRL.L.P. 283/2016, CRL.L.P. 284/2016, CRL.L.P. 285/2016, CRL.L.P. 286/2016

1. For the grounds and reasons stated therein, the above-captioned applications are allowed. Leave granted. With the consent of counsel for the parties, the main appeals are taken up for final disposal, today itself.
2. The applications are disposed of.



Crl.A.

3. The Registry is directed to assign appropriate numbers to the present appeals.

4. Revenue, through the above-captioned appeals filed under Sections 378(2)(b) and 378(3) of the Code of Criminal Procedure, 1973, assails the orders of acquittal passed by the Appellate Court of Sessions Judge. The impugned orders arise from a common factual matrix, i.e., the Respondent's failure to file returns across multiple assessment years. The contentions raised in these orders by the Appellant and the Respondent involve identical legal questions and substantially similar grounds. Accordingly, it is considered appropriate to decide these appeals through a single, consolidated order.

5. The essential background facts relevant for deciding the present appeals are summarised as follows:

5.1. In March 2011, acting on allegations of tax evasion and banking fraud, a search was conducted under Section 132 of the Income Tax Act, 1961,¹ at the premises M/s Century Communication Group (a part of the M/s Mahuaa Media Group), where the Respondent served as a director. During the course of this operation, various documents were recovered and seized from the Respondent's premises. Consequently, a notice under Section 153A of the Act was issued and duly served upon the Respondent on 03rd January, 2012², directing him to file his return of income within 20 days, as per details below:

Assessment Year

Criminal Leave Petition No.

¹ "the Act"

² Separate notices were issued under the said provision on different dates with respect to other assessment years.



Assessment Year	Criminal Leave Petition No.
2005–06	CRL.L.P. 280/2016
2006–07	CRL.L.P. 282/2016
2007–08	CRL.L.P. 281/2016
2008–09	CRL.L.P. 283/2016
2009–10	CRL.L.P. 284/2016
2010–11	CRL.L.P. 285/2016
2011–12	CRL.L.P. 286/2016

Despite the notice, the Respondent failed to furnish his returns within the stipulated period. As a result, a show cause notice dated 3rd February, 2012 was issued, calling upon him to explain why prosecution proceedings under Section 276CC should not be initiated for his failure to comply with the notice issued under Section 153A. This was followed by a series of correspondences between the Revenue Department and the Respondent, during which the Respondent either requested certain documents from the Department to facilitate the filing of returns or sought extensions of time to do so.

5.2. Subsequently, another notice was issued to the Respondent under Section 142(1) of the Act on 18th May, 2012, directing him to file his return on or before 24th May, 2012.

5.3. In view of his continued non-compliance, another show cause notice under Section 276CC of the Act was issued to the Respondent on 17th October, 2012, once again calling upon him to explain why criminal prosecution should not be initiated for failure to file returns within the prescribed time. In his reply dated 21st November, 2012, the Respondent urged that prosecution ought not to be initiated against him as he had filed returns on several previous occasions, and contended that his inability to file returns was due to circumstances beyond his control.



5.4. In the meanwhile, on 24th January, 2013, the Respondent belatedly filed his tax return, declaring an income of INR 44,28,400/- which was essentially a verbatim reproduction of the original return filed on 29th July 2005 under Section 139 of the Act. However, the Revenue Department found this return to be inadequate and unsatisfactory as it failed to substantively address the specific queries posed to the Respondent in the detailed questionnaires dated 14th February, 2012 and 10th October, 2012, requiring him to appear before the Assessing authorities and furnish explanations regarding two material transactions: (i) A bank account in Citibank with INR 64,70,000/- deposited; and (ii) a flat in Mumbai bought in July 2004 for INR 78,20,000/-, along with additional INR 9,97,000/- for extra amenities. Further, despite multiple reminders dated 14th February 2013, and 12th March, 2013 sent to the Respondent seeking his appearance *qua* the questionnaires, the Respondent failed to comply with the same.

5.5. The Respondent also filed an application dated 12th February, 2013 seeking compounding of the offence under Section 153A and expressed his willingness to comply with the directions issued by the Income Tax Department. In response, the Department, by communication dated 18th February, 2013, informed the Respondent that his application for compounding could not be entertained as it was premature at that stage of the proceedings.

5.6. On 25th February, 2013, given the continued failure on the Respondent's part to file his returns within the permissible time frame despite the notice under Section 153A of the Act, the Revenue filed separate complaints initiating criminal proceedings against the Respondent under the Section 276CC before the Court of Additional Chief Metropolitan



Magistrate (Special Acts), Central, Tis Hazari Courts, being C.C. Nos. 14/04 to 20/04, covering all the assessment years in question.

5.7. Furthermore, given that the assessment under Section 142 of the Act was getting time-barred on 31st March, 2013, Revenue passed an Assessment Order on 18th March, 2013 under Section 144 of the Act, determining the total income of the Respondent at INR 1,97,32,841/-. Additionally, in view of the Respondent's persistent non-cooperation with aforementioned assessment proceedings in light of the Section 142(1) notice, evidenced by his failure to appear before the assessing authorities on the prescribed dates of hearing, parallel proceedings under Section 271(1)(b) of the Act were also initiated against the Respondent. Consequently, an order dated 9th September, 2013 under Section 271(1)(b) read with Section 274 of the Act was passed, imposing a penalty of INR 10,000/- for each instance of non-compliance of notices under Section 142(1) of the Act.

5.8 The Respondent challenged the penalty orders before the Commissioner of Income Tax (Appeals)³ through Appeal Nos. 461-467/13-14. This challenge was allowed by order dated 17th October, 2014, and the penalties were set aside. Revenue contends that they did not further pursue the matter before the Income Tax Appellate Tribunal, having regard to the low tax effect as per CBDT's prescribed monetary limits for appeals.

5.9 In light of the CIT(A)'s order, the Respondent urged before the Trial Court that the pending criminal proceedings against him under Section 276CC of the Act should also be dropped. However, this plea was rejected. By way of a common judgment dated 28th November, 2014, the Trial Court convicted the Respondent for the offence under Section 276CC of the Act in



Complaint Nos. 14/04, 15/04, 16/04, 17/04, 18/04, and 20/04, and he was sentenced to undergo simple imprisonment for a period of four years along with a fine of INR 2 lakhs in each case. In Complaint No. 19/4, he was sentenced to simple imprisonment for two years along with a fine of INR 2 lakhs.

5.10. Aggrieved, the Respondent preferred appeals before the Additional Sessions Judge (ASJ). By a common order impugned herein, the appeals were allowed, the conviction orders were set aside, and the Respondent was acquitted of all charges.

6. Revenue assails the aforementioned order on the following grounds:

6.1. The Appellate Court gravely erred in setting aside the conviction under Section 276CC of the Act merely on the basis that the penalty proceedings under Section 271(1)(b) had been quashed by the CIT(A).

6.2. This reasoning in the impugned order is fundamentally flawed. The failure to file a return pursuant to a notice under Section 153A, which constitutes the basis for prosecution under Section 276CC, is distinct and independent from the non-compliance with notices issued under Section 142(1), which forms the basis for penalty under Section 271(1)(b). The prosecution under Section 276CC is premised on the Respondent's failure to furnish the return within the prescribed time in response to the notice under Section 153A, which is unaffected by the setting aside of penalty under Section 271(1)(b).

6.3. Without prejudice to the above, it is urged the Appellate Court failed to appreciate that the order passed by the CIT(A) was not accepted by the revenue on merits. The only reason for not filing an appeal before the

³ "CIT(A)"



Income Tax Appellate Tribunal was the low tax effect, in adherence to the monetary limits prescribed under the CBDT's circular. Consequently, the observation of the Appellate Court that the CIT(A) order had attained finality is misplaced and legally unsustainable.

7. On the other hand, counsel for the Respondent, contends as follows:

7.1 While the Appellate Court's primary reasoning may have been centred on the quashing of penalty proceedings by the CIT(A), the impugned appellate order also contains observations accepting the Respondent's explanation for not complying with the notice under Section 153A.

7.2 The Respondent had consistently maintained that his failure to file the return was not a conscious or deliberate act but arose from genuine and unavoidable circumstances. Specifically, the Respondent had expressed difficulties in accessing and compiling the requisite documents, which were allegedly misplaced or not traceable at the relevant time. This explanation was found plausible by the CIT(A), who observed that the Respondent's conduct did not demonstrate any element of *mens rea* or an intention to evade tax liability.

7.3 Section 276CC of the Act criminalizes only a "wilful" failure to furnish returns, which mean that *mens rea* is an essential ingredient for establishing culpability. Mere technical or procedural lapses, absent a deliberate intention to contravene the law, cannot constitute a prosecutable offence under this provision.

7.4 Moreover, the order dated 17th October, 2014 passed by the CIT(A) although framed in the context of penalty proceedings, embodies a factual finding that the default was not wilful. Once such a finding is recorded by



the appellate authority, it significantly affects the foundation of the criminal proceedings, as wilfulness in default is a material requirement under Section 276CC of the Act to prosecute someone with criminal proceedings.

7.5 The revenue's assertion that the CIT(A) order has not attained finality is misconceived. While it is true that the Department refrained from challenging the order before the ITAT citing low tax effect, it implies acquiescence to the factual findings recorded therein. Therefore, the conclusions drawn by the Appellate Court in setting aside the conviction are fully supported by the legal and factual matrix, warranting no interference.

Analysis

8. The Court has carefully considered the rival submissions advanced by the parties and has perused the record. Before proceeding further, it is necessary to first examine the framework governing prosecution under Section 276CC of the Act. Section 276CC provides for criminal prosecution where a taxpayer *wilfully* fails to furnish his income tax return in due time, including in response to notices under Sections 139(1), 142(1), 148, or 153A, and prescribes rigorous imprisonment and/or fine. On the other hand, Section 271(1)(b) allows the Assessing Officer to impose a monetary penalty (₹10,000 per default) for failure to comply with notices under Section 142(1), unless the taxpayer can show *reasonable cause*. Crucially, prosecution under Section 276CC for failing to file returns pursuant to a Section 153A notice is a distinct cause of action and is independent from penalties under Section 271(1)(b) for non-compliance with a Section 142(1) notice.

9. Indeed, while it is true that penalty proceedings may, in certain



circumstances, bear upon the sustainability of prosecution under Section 276CC of the Income Tax Act, such an effect arises only where both proceedings emanate from the same cause of action and rest on identical factual foundations. In the present case, the penalty proceedings initiated under Section 271(1)(b), for non-compliance with a notice under Section 142(1) stand on a distinct legal and factual footing from the prosecution initiated under Section 276CC for failure to furnish returns pursuant to a notice under Section 153A. The two provisions operate in separate statutory spheres. Section 271(1)(b) addresses procedural default in the assessment stage, while Section 276CC concerns the substantive and wilful omission to file returns of income in accordance with statutory mandates. That being so, the mere setting aside of penalty under Section 271(1)(b) by an appellate authority does not, by itself, vitiate the prosecution under Section 276CC. The law does not contemplate an automatic corollary between the two.

10. Keeping the afore-noted principles in mind, it is pertinent to examine the reasoning adopted by the Appellate Court while allowing the appeals of the Respondent. The operative findings of the Appellate Court are reproduced as follows:

“9. It is conceded by Sh. Brijesh Garg, Ld. Counsel for Income Tax Department (R2) that in this case the Department of Income Tax has not preferred any appeal against the order of CIT Appeal and as such the order of CIT Appeal has become final.

10. However, defending the Department action it has been submitted that Department did not prefer an appeal against the order of CIT dated 18.7.2014, in view of the Circular Dated 10.7.2014 where in Para 3 it has been mentioned that 'Henceforth appeals shall not be filed in cases where the tax effect does not... exceed the monetary limits given hereunder:-

S.No.	Appeals in income-tax	Monetary Limit
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	<i>matters</i>	<i>(in Rs)</i>
1.	<i>Before Appellate Tribunal</i>	<i>4,00,000/-</i>
2.	<i>U/s 260A before High Court</i>	<i>10,00,000/-</i>
3.	<i>Before Supreme Court</i>	<i>25,00,000/-</i>

11. It is submitted by the Ld. Counsel that in view of the above said Circular the right of the Department to file appeal is restricted with the amount of income tax and since penalty levied in the instant cases in all seven matters is less than the amount for which appeal could have been filed, so no such appeal was preferred though on merits the Department does not accept the order of CIT Appeal.

12. As may be noted from the Trial Court Record that appellant in all the seven complaint cases were given charge for the reason that he did not file the return of income tax for different assessment years as are the subject matter of all the seven cases In spite of service of the notice u/s 153 (A) and service of the notice u/s 142 (1) Income Tax Act within the stipulated time and by doing so he committed offence punishable u/s 276 CC Income Tax Act. 13. In the order dated 17.10.2014 of Commissioner of Income Tax (Appeals) the penalty imposed u/s 271 (1) (b) were held not legally sustainable and were cancelled. These penalties are the basis of the criminal prosecution of the appellant in all the complaint cases. In view of the fact that no further appeal has been preferred by the Department of the Income Tax against this order of the Appellate Authority of Income Tax, the same attains finality. **As a result if the penalty does not survive the criminal prosecution for the same also cannot be sustained.**

14. In view of this position and also taking into account the legal position as enunciated in **K.C. Builders (Supra)**, the appeal No. 9/2015 to 15/2015 are allowed and order of conviction and sentence is recalled and set aside. 15. Copy of this order be also kept in all the six other appeals bearing no.10/2015 to 15/2015.

16. TCR along with order and copy thereof in each of the complaint case be sent back to the Trial Court for information and records.

17. Bail bond, surety bond of the appellant in each appeal stands cancelled. Appellant shall execute fresh bail bond, surety bond in the sum of Rs. 50,000/- with one surety in the like amount to the satisfaction of this Court in each of the seven appeal for a period of six months from today in compliance of Section 437 (A) Cr.P.C.

18. Appeal files be consigned to record room."

11. A plain reading of the impugned order indicates that the Appellate Court proceeded on the assumption that the quashing of penalty proceedings



under Section 271(1)(b) of the Act, automatically undermines the maintainability of prosecution under Section 276CC. In doing so, the Appellate Court placed reliance on the decision of the Supreme Court in ***K.C. Builders & Another v. Assistant Commissioner of Income Tax***⁴, wherein it was held that once the penalty imposed under Section 271(1)(c) for concealment of income is set aside, the substratum for launching prosecution under Section 276C stands extinguished.

12. However, this Court finds the reliance on *K.C. Builders* to be misplaced. The judgment in *K.C. Builders* was rendered in the context of prosecution under Section 276C, which specifically deals with wilful attempt to evade tax, and was integrally linked with the penalty proceedings under Section 271(1)(c) for concealment of income. The Supreme Court held that once the Appellate Tribunal had returned a conclusive finding that there was no concealment, the foundation for the prosecution collapsed, since both actions arose from the same alleged default and shared the same evidentiary basis. In contrast, the present case pertains to prosecution under Section 276CC for wilful failure to furnish returns in response to a notice under Section 153A. The penalty proceedings under Section 271(1)(b), which were subsequently quashed, arose from a separate and distinct event, namely, alleged non-compliance with a notice under Section 142(1). These provisions address different infractions and are not interdependent. Thus, the cancellation of penalty under Section 271(1)(b) does not *ipso facto* vitiate the prosecution under Section 276CC, especially when the latter is founded on a separate statutory default. The ratio in *K.C. Builders* is therefore inapplicable to the factual matrix of the present case.

⁴ (2004) 2 SCC 731.



13. Counsel for the Revenue, Mr. Gaurav Gupta, has rightly drawn attention to the decision of the Supreme Court in *Vinubhai Mohanlal Dobaria v. Chief Commissioner of Income-tax*⁵ to emphasise the statutory imperative of filing income tax returns within the time prescribed under law. The Court in that case reiterated that the offence under Section 276CC is complete at the moment the assessee fails to furnish the return of income within the due date as stipulated under Section 139(1). It was categorically held that subsequent compliance, whether under Section 139(4) or prior to the initiation of prosecution, does not obliterate the offence already committed. The judgment reinforces the proposition that the obligation to file returns within the statutory timeframe is not directory but mandatory. A breach of this obligation, in the absence of reasonable cause, invites penal consequences, including prosecution under Section 276CC.

14. Although the Supreme Court in *Vinubhai* arose in the context of default under Section 139(1), the underlying rationale of the decision is equally applicable to cases of non-filing of returns in response to a notice issued under Section 153A. The phraseology of Section 276CC explicitly brings within its sweep failure to file returns not only under Section 139(1) but also pursuant to notices issued under Sections 142(1) or 153A. Therefore, the offence under Section 276CC is equally attracted where an assessee, despite receipt of a notice under Section 153A, fails to furnish the return within the prescribed time. The distinction between the triggering provision, be it Section 139(1), 142(1), or 153A, does not dilute the core obligation or the penal consequences that follow from non-compliance.

15. In the present case, it is undisputed that the Respondent was served

⁵ [2025] 2 S.C.R. 476.



with a notice under Section 153A of the Act on 3rd January, 2012, calling upon him to furnish returns of income within a period of 20 days. Despite such service, the Respondent failed to comply with the said notice within the stipulated time. Once a notice under Section 153A was duly served, and the assessee failed to file a return within the prescribed period, the statutory breach stood crystallised, irrespective of subsequent compliance or parallel proceedings.

16. Insofar as the penalty proceedings under Section 271(1)(b) of the Act are concerned, these arose from non-compliance with notices issued under Section 142(1), and not under Section 153A. The prosecution under Section 276CC, on the other hand, rests on the independent default of non-filing of returns in response to the Section 153A notice. These proceedings, as discussed above therefore, emanate from distinct defaults under the Act. The mere fact that the penalty under Section 271(1)(b) was later set aside by the CIT(A) does not, in law, efface or neutralise the separate statutory offence under Section 276CC. This distinction, fundamental to the scheme of the Act, appears to have been lost sight of by the Appellate Court.

17. In view of the foregoing analysis, this Court is of the considered opinion that the reasoning adopted by the Appellate Court is unsustainable. The acquittal order, resting as it does solely on the setting aside of penalty proceedings under Section 271(1)(b), fails to appreciate the independent statutory footing of prosecution under Section 276CC. The Revenue's contention, that the offence under Section 276CC stands on its own merits and does not get extinguished merely because a penalty for a separate default has been annulled is well-founded in law. Accordingly, the acquittal order passed by the Appellate Court cannot be upheld on this aground.



18. However, this does not conclude the present inquiry. A critical aspect which remains to be considered is whether the Respondent's non-compliance with the Section 153A notice was "wilful", a necessary ingredient to attract criminal culpability under Section 276CC. This element of wilfulness merits careful examination, as it goes to the very root of criminal intent, which distinguishes mere technical or procedural lapses from punishable defaults.

19. In this regard, it is first necessary to note that "wilfulness" of the default is indeed a critical statutory requirement under Section 276CC of the Act, which is extracted below:

If a person wilfully fails to furnish in due time the return of fringe benefits which he is required to furnish under sub-section (1) of section 115WD or by notice given under sub-section (2) of the said section or section 115WH or the return of income which he is required to furnish under sub-section (1) of section 139 or by notice given under clause (i) of sub-section (1) of section 142 or section 148 or section 153A, he shall be punishable,—

- (i) in a case where the amount of tax, which would have been evaded if the failure had not been discovered, exceeds twenty-five hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;*
- (ii) in any other case, with imprisonment for a term which shall not be less than three months but which may extend to two years and with fine:*

(Emphasis Supplied)

20. The Supreme Court in ***Sasi Enterprises v. Assistant Commissioner of Income Tax***⁶ elaborated on the expression "wilfully fails," observing that Section 276CC punishes a person who "wilfully fails to furnish the return of income in time". The relevant portion is excerpted:

24. The constitutional validity of Section 276(CC), was upheld by the

⁶ (2014) 361 ITR 163 (SC)



Karnataka High Court in Sonarome Chemicals Pvt. Ltd. and others v. Union of India and others (2000) 242 ITR 39 (Kar) holding that it does not violate Article 14 of 21 of the Constitution. Section punishes the person who “willfully fails to furnish the return of income in time”. The explanation willful default, as observed by Wilber Force J. in Wellington v. Reynold (1962) 40 TC 209 is “some deliberate or intentional failure to do what the tax payer ought to have done, knowing that to omit to do so was wrong”.

(Emphasis Supplied)

21. Similarly, in ***Gujarat Travancore Agency v. CIT***,⁷ the Supreme Court affirmed that no sentence can be imposed under such provisions unless the element of *mens rea*, is established. This reinforces the principle that the punitive consequences under Section 276CC hinge not merely on the act of non-filing, but on the deliberate and conscious nature of such non-compliance. The relevant portion reads as follows:

*4. There can be no dispute that having regard to the provisions of s. 276C, which speaks of wilful failure on the part of the defaulter and taking into consideration the nature of the penalty, which is punitive, **no sentence can be imposed under that provision unless the element of mens rea is established.***

(Emphasis Supplied)

22. That said, it is equally important to take note of Section 278E of the Act, which introduces a reverse burden clause in prosecutions under provisions such as Section 276CC. This section mandates that the Court shall presume the existence of a culpable mental state, including the element of *mens rea*, on the part of the accused. The Supreme Court in *Sasi Enterprises v. ACIT*, has categorically held that once the statutory presumption under Section 278E is triggered, the burden shifts to the

⁷ (1989) 177 ITR 455 (SC)



accused to disprove the existence of a wilful default. In other words, the onus lies on the assessee to establish, beyond reasonable doubt, that the failure to file returns within the prescribed period was not intentional. The relevant portion is extracted as follows:

*32. Section 278E deals with the presumption as to culpable mental state, which was inserted by the Taxation Laws (Amendment and Miscellaneous Provisions) Act, 1986. The question is on whom the burden lies, either on the prosecution or the assessee, under Section 278E to prove whether the assessee has or has not committed willful default in filing the returns. **Court in a prosecution of offence, like Section 276(CC) has to presume the existence of mens rea and it is for the accused to prove the contrary and that too beyond reasonable doubt.***

(Emphasis Supplied)

23. Nonetheless, in the present case, the Respondent has placed reliance on findings recorded by the CIT(A) in the penalty proceedings, which, according to him, bear relevance to the issue of *mens rea*. Indeed, it can be seen from the said order that CIT(A) accepted that the Respondent had sought copies of the seized documents to enable him to prepare and file his returns in compliance with the Section 153A notice, and that since such documents were supplied only after the expiry of the stipulated compliance period it cannot be concluded that there was non-compliance by the Respondent to the said notices. The CIT(A) also noted that the Respondent demonstrated willingness to comply with the statutory notices by filing a letter on 29th February, 2012 seeking copies of seized material, establishing that the Respondent was appearing before the Assessing Officer on various dates. Moreover, the CIT(A) took note of the exceptional circumstances confronting the Respondent, including the CBI investigations against the group companies where he was a director and the arrest of his father-in-law,



which contributed to a state of disruption and uncertainty. The CIT(A) further observed that in these peculiar circumstances, the non-compliance could not be characterised as deliberate or wilful. Instead, it reflected an inability to comply within the prescribed time owing to factors beyond the Respondent's control. In light of these findings, the CIT(A) concluded as follows:

5. As would appear from the events narrated in Para-4 above, strictly speaking there was no default by way of non-compliance to the notices issued u/s 153A/142(1) except for the fact that full details/ documents as required in the notices u/s 142(1) dated 14.02.2012 and 10.10.2012 could not be filed by the appellant before completion of the assessment proceedings.

24. Moreover, the fact that the Respondent ultimately filed his returns on 24th January, 2013, albeit after the prescribed deadline, demonstrates a *bona fide* intent on part of the Respondent to comply with the statutory notices issued to him.

25. Accordingly, in view of these factual findings, this Court finds merit in the Respondent's plea that the presumption under Section 278E stands rebutted. The documentary record and contemporaneous explanations establish, beyond reasonable doubt, that the failure to file returns in response to the Section 153A notice was not wilful. The absence of *mens rea*, therefore, vitiates the very foundation necessary to sustain a conviction under Section 276CC.

26. Thus, while this Court agrees with the Revenue's contention that the mere setting aside of penalty under Section 271(1)(b) by itself does not automatically nullify the criminal prosecution under Section 276CC, the peculiar facts and circumstances of the present case, particularly the



Respondent's demonstrated efforts and the CIT(A)'s findings, tilt the balance in favour of the Respondent.

27. In these circumstances, the acquittal recorded by the Appellate Court, though based on an erroneous legal premise, ultimately deserves to be upheld on the distinct ground of absence of wilful default.

28. With the above directions, the present appeals are disposed of.

SANJEEV NARULA, J

JULY 9, 2025

as