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Crl.O.P. No. 15392 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2026

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THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

Crl.O.P. No.15392 of 2026

and

Crl.M.P.Nos.10040 & 10041 of 2026

1. M/s.C.S.Projects India Private Limited

No.5/1, Veterinary Hospital Road

Erode – 638 001

Represented by its Director

Shri.C.Sivagnanaselvam

2. C.Sivagnanaselvam

Director of M/s.C.S.Projects India Private Limited

No.204, Iyyan Thirumaligai

Kannankurichi, Salem – 636 008.

3. R.Jeyamohan

Director of M/s.C.S.Projects India Private Limited

No.8, NGGO Colony, 1st Street

Erode – 638 009.

4. R.Tamilanban

Director of M/s.C.S.Projects India Private Limited

L-132, Periyar Nagar,

Erode – 638 001.

..Petitioners

Vs.

The Income Tax Officer,

Ward-1 (1),

Office at No.15, Gandhiji Road

Erode – 638 001.

..Respondent



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PRAYER:

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The Criminal Original Petition filed under Section 528 of BNSS, 2023, praying to call for records relating to C.C.No.2958 of 2025 pending on the file of the learned Chief Judicial Magistrate, Erode and quash the same.

For Petitioners	::	Mr.K.Prasanthan
For Respondent	::	Mr.M.Sheela Senior Standing Counsel Assisted by Mr.H.Siddarth, Junior Standing Counsel

ORDER

The petitioners / accused, who are facing trial in C.C.No.2958 of 2025 for an offence under Section 276C(1) of the Income-tax Act, 1961, have filed the present quash petition.

2. The case of the petitioners is that, for the assessment year 2012-2013, the first petitioner filed the income tax return on 24.05.2013, declaring a total income of Rs.29,88,480/-. The case was taken for scrutiny and after the issuance of statutory notices, calling for books of account and details, the respondent completed the assessment under Section 143(3) of the IT Act by



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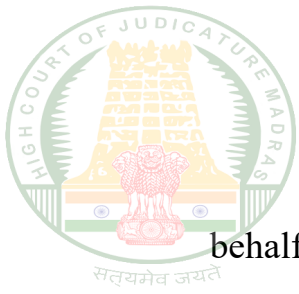
order dated 31.03.2015, determining the total income at Rs.80,04,299/- by making additions of Rs.37,15,819/- towards alleged “unproven liabilities / cessation of liability” and Rs.13,00,000/- towards alleged “unexplained cash credit” under Section 68. Consequent upon the said assessment, the respondent initiated penalty proceedings under Section 271(1)(c) of the IT Act, alleging concealment of income and furnishing of inaccurate particulars and levied a penalty by order dated 28.09.2015 amounting to Rs.15,49,889/- being 100% of the tax sought to be evaded. The petitioners carried the matter in appeal to the Commissioner of Income Tax (Appeals)-3, Coimbatore, in ITA No.268/15-16 and by order 18.08.2016, the learned CIT(A) dismissed the appeal and confirmed the levy of penalty under Section 271(1)(c) of IT Act. Thereafter, the petitioners preferred a further appeal before the Income Tax Appellate Tribunal, in I.T.A.No.3240/Chny/2017 and by order dated 19.03.2021, the Tribunal, allowed the appeal and deleted, in toto, the penalty levied under Section 271(1)(c), categorically holding that the additions in question did not amount to concealment of income or furnishing of inaccurate particulars of income and that the penalty under Section 271(1)(c) was not leviable on the facts of



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the case. The Tribunal, recorded findings that, in respect of the alleged “unproved liabilities”, the assessee had furnished particulars of the parties, confirmations and supporting evidences, the services rendered and payments made were not in dispute, and that mere non-acceptance of the assessee’s explanation at the assessment stage would not, *ipso facto*, amount to concealment of income or furnishing of inaccurate particulars of income. Likewise, with regard to the alleged “unexplained cash credit” of Rs.13,00,000/- in the name of one Shri Karur Ramaswamy, the Tribunal noticed that confirmation filed and held that dissatisfaction on the part of the Assessing Officer with the explanation offered could not, by itself, justify the levy of penalty under Section 271(1)(c). Thereafter, the complaint came to be filed against the petitioners.

3. The learned counsel for the petitioners submitted that, against the order passed by the CIT(A), an appeal was preferred before the Income Tax Appellate Tribunal in respect of the assessment year 2012-2013, for which the petitioners are now facing prosecution on the allegation of making a false declaration. The ITAT, after considering the submissions made on



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behalf of the petitioners as well as the Department, by order dated 19.03.2021, particularly in paragraph No.13 thereof, held that merely because the Assessing Officer was not satisfied with the explanation furnished by the assessee, it cannot be said that the assessee had furnished inaccurate particulars of income. With regard to the addition made towards the alleged unexplained cash credit of Rs.13 Lakhs, an unsecured loan obtained from Mr.Karur Ramasamy, and the addition towards alleged “unproven liabilities / cessation of liability”, the Tribunal took note of the materials placed on record and held that the Assessing Officer merely doubted the transactions. The ITAT ultimately concluded that mere dissatisfaction of the Assessing Officer with the explanation offered by the assessee would not justify the levy of penalty under Section 271(1)(c) of the IT Act. Accordingly, it was held that the Assessing Officer erred in levying penalty under Section 271(1)(c) of the IT Act. The learned counsel therefore, contended that, once the ITAT arrived at such a conclusion, the prosecution against the petitioners is liable to be quashed.



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4. In support of the said contention, the learned counsel placed reliance on the decision of the Hon'ble Supreme Court in the case of ***K.C.Builders and another Vs. Assistant Commissioner of Income Tax*** reported in ***(2004) 2 SCC 731***, wherein it was held that levy of penalties and prosecution under Section 276-C are simultaneous and that once the penalties are cancelled on the ground that there is no concealment of income, the quashing of prosecution under Section 276-C is automatic. The learned counsel further submitted that the said principle has been followed by this Court in its order dated 08.04.2025 passed in Crl.O.P.Nos.15988 and 16013 of 2023.

5. Per contra, the learned counsel appearing for the Income Tax Department submitted that the Assessing Officer, on scrutiny of the records, found that the petitioners furnished inaccurate particulars and suppressed taxable income. Accordingly, penalty proceedings were initiated and an order imposing penalty was passed. Aggrieved thereby, the petitioners preferred an appeal before the ITAT. During the pendency of the criminal prosecution, the ITAT, by order dated 19.03.2021 set aside the penalty



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order.

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6. Relying upon the ITAT order, the petitioners contended that the very foundation for the prosecution no longer survives and therefore, the criminal proceedings are liable to be quashed.

7. Accordingly, the Criminal Original Petition stands allowed and the proceedings against the petitioner in C.C.No.2958 of 2025 pending on the file of the learned Chief Judicial Magistrate, Erode, are hereby quashed. Consequently, connected miscellaneous petitions are closed.

18.06.2026

Index : Yes/No
Speaking order/Non-speaking order
Neutral citation : Yes/No
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To
1. The Chief Judicial Magistrate
Erode.
2. The Income Tax Officer, Ward-1 (1),
Office at No.15, Gandhiji Road
Erode – 638 001.
3. The Public Prosecutor
High Court, Madras.

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M. NIRMAL KUMAR,J.

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