(2000) 02 MAD CK 0093

In the Madras High Court

Case No : Criminal M.P. No. 984 of 2000 in Criminal R.C. No. 588 of 1996

Income Tax Officer APPELLANT

Vs

Dr. K. Jagadeesan RESPONDENT

Date of Decision : 11-02-2000

Acts Referred:
Income Tax Act, 1961 — Section 279, 279(2)

Citation : (2002) 257 ITR 476

Hon'ble Judges : V. Bakthavatsalu, J

Bench : Single Bench

Advocate : T. Sivananthan, Special Public Prosecutor, for the Appellant;

Final Decision : Allowed

Judgement

V. Bakthavatsalu, J.—The petition is filed by the Income Tax Officer to compound the offence.

2. The respondent-accused was convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs. 10,000 u/s 276CC(i) of the Income Tax Act, 1961. The respondent-accused preferred an appeal in C. A. No. 46 of 1996. The appellate court by judgment dated August 12, 1996, confirmed the conviction, but the sentence was reduced to a period of three months. However, the appellate court has confirmed the sentence of fine, as imposed by the trial court. Aggrieved by the said judgment ,the accused has preferred this revision. When the revision cases came up for final hearing, the complainant-income tax Officer has filed this application seeking leave to compound the offence. It is alleged in the petition that the Chief Commissioner of Income Tax has passed an order, that if the petitioner-accused agrees to pay compounding fee of Rs. 10,000, the matter can be considered and the respondent has also paid the amount on December 3, 1998. It is further alleged that penalty proceedings initiated under the Income Tax Act were set aside in the appeal and that the Income Tax Tribunal has given a finding in favour of the accused. Section 279(2) of the Act confers the discretion on the Commissioner to

compound any offence. It is admitted that the accused has also filed an application for compounding the case. I am satisfied that the order of the Chief Commissioner in agreeing to compound the case, subject to leave of the court that would be granted by the court, is in accordance with law. As the offence is compounded, the conviction and the sentence imposed on the accused are liable to be set aside.

3. In the result, the following order is passed. For the reasons stated above, the petition is allowed, leave to compound the offence is granted.

