(2000) 02 MAD CK 0001

In the Madras High Court

Case No : Criminal Miscellaneous Petition No. 984 of 2000 and Criminal Reference Case No. 588 of 1996

ITO APPELLANT

Vs

Dr. K. Jagadeesan RESPONDENT

Date of Decision : 11-02-2000

Acts Referred:
Income Tax Act, 1961 — Section 276CC(1), 279(2)

Citation : (2001) 118 TAXMAN 499

Hon'ble Judges : V. Bakthavatsalu, J

Bench : Single Bench

Advocate : T. Sivananthan, for the Appellant;

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 6 months and to pay a fine of Rs.

10,000 u/s 276CC(1) of the Income Tax Act, 1961 (hereinafter referred to as ''the Act''). The respondent/accused preferred an appeal in C.A.

No. 46 of 1996. The appellate court by judgment dated 12-8-1996 confirmed the conviction, but the sentence was reduced to a period of 3

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 case 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 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 3-

12-1998. It is further alleged that penalty proceeding initiated under the Act was set aside in the appeal and that the 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.

