**(1997) 04 PAT CK 0082**

**In the Patna High Court**

**Case No :** Criminal Miscellaneous No. 1014 of 1992

Kishore Kumar More APPELLANT

Vs

Commissioner of Income Tax RESPONDENT

**Date of Decision :** 08-04-1997

**Acts Referred:**
Income Tax Act, 1961 — Section 276C, 276D, 277

**Citation :** (1998) 100 TAXMAN 161

**Hon'ble Judges :** Daljit Singh Dhaliwal, J

**Bench :** Single Bench

**Advocate :** Ajay Kumar Rastogi and Shailendra Kumar, for the Appellant; S.K. Sharan, for the Respondent

**Final Decision :** Allowed

# Judgement

Daljit Singh Dhaliwal, J.—Sri Kishore Kumar More, the petitioner herein prays for quashing of entire criminal prosecution pending before Special Court for Economic Offences (Muzaffarpur) arising out of Complaint Case No. 447 of 1991 for offences under sections 276C, 277 and 276D of the income tax Act, 1961 (''the Act''). It appears that the petitioner filed income tax return for the assessment year 1986-87 showing his total income of Rs. 29,807. On 28-9-1988, the income tax authorities carried out a raid on the business premises of the petitioner and they finally assessed the total income of the petitioner at Rs. 78,62,020. A criminal complaint was, thus, filed for the aforesaid offences against the petitioner. The counsel for the petitioner today filed a supplementary affidavit along with Annexure 7, the order of the Settlement Commission (IT and WT) whereby a penalty of Rs. 20,000 has been imposed upon the petitioner, in respect to his assessment for the year 1986-87 and he has been granted immunity from prosecution under the income tax Act.

2. The learned counsel for the petitioner submitted that the petitioner filed an application before the Settlement Commission against the assessment arrived at by the Assistant Commissioner and the Commission vide its order (Annexure 7)

 

has granted immunity to the petitioner for prosecution and as such, the prosecution of the petitioner for the aforesaid offences deserves to be quashed.

3. The learned counsel appearing on behalf of the income tax authorities has admitted the aforesaid position. Having regard to the fact that the Settlement Commission while imposing penalty upon the petitioner has also granted immunity from criminal prosecution, the impugned order taking cognizance on the basis of criminal complaint filed earlier by the income tax authorities cannot be sustained. In the result, the petition is allowed. The impugned order taking cognizance and the criminal prosecution of the petitioner resting thereon are hereby quashed.

 