

Union of India and Anr. v. Banwari Lal Agarwal

Criminal Appeal Nos. 1087–1090 of 1998

[1998] Supp. 2 SCR 356 | 1998-10-16

Whether the High Court could terminate the prosecution on an unsupported assessment-compromise assurance and on the supposed right to an offer of compounding before prosecution under section 279(2).

132 (search background) | 276C (alleged offence) | 279(2) (compounding)

Two-judge bench | M.K. Mukherjee, J. | B.N. Kirpal, J.

Assessment years: 1978-79, 1979-80, 1980-81

Prosecution restored; no conviction or mandatory compounding offer

This order rejects the claimed right under section 279(2) to a pre-prosecution compounding offer and reverses an unsupported assurance-based termination of proceedings. It restores trial; it does not convict the respondent, decide every prosecution safeguard, or prohibit a compounding request before or after proceedings. The alleged understanding, if legally possible, remains a matter for proof at trial. Authorities and procedures are historical; current guidelines, later treatment and any 2025 Act mapping remain unverified.

01 FACTS OF THE CASE

For AYs 1978-79, 1979-80 and 1980-81, the respondent filed belated returns after a section 132 search. Assessments exceeded the returned income. Prosecution under section 276C alleged a wilful attempt to evade tax (physical page 2/SCR 357).

In a section 482 application, the respondent asserted that the assessments reflected a compromise with the Income-tax Commissioner, Kanpur, accompanied by an understanding against penal action. He also argued that section 279(2) required a pre-prosecution hearing or opportunity to compound. The Allahabad High Court accepted these grounds. The Union's four criminal appeals challenged that decision (physical pages 1–2).

Source: See the proposition-specific paragraph and PDF-page references below.

02 DISCUSSION BY THE HON'BLE COURT

The Supreme Court found no record basis for the asserted assurance against penal action. Counsel could identify no statutory provision authorising the supposed compromise assessment with the Commissioner. The Court also noted the undisputed delay and the absence of proper consideration of the gap between returned and assessed income. Even if an understanding could have existed, its factual existence would have to be proved before the Trial Court (physical pages 2–3/SCR 357F–358A).

Section 279(2) was enabling: the Chief Commissioner or Director General could compound an offence before or after institution of proceedings. It did not give a person a right to insist that the authority offer compounding, issue a show-cause notice, or afford a compounding opportunity before launching prosecution. This construction of subsection (2) did not determine guilt or address every other statutory prerequisite to prosecution (physical page 3/SCR 358B–C).

Source: See the proposition-specific paragraph and PDF-page references below.

03 JUDICIAL DECISION

The appeals were allowed; the High Court decision was set aside and the respondent's section 482 application stood dismissed. The Trial Court was directed to proceed in accordance with law as expeditiously as possible. The operative order contains no costs direction and no conviction or sentence (physical page 3/SCR 358C–D).

Source: See the proposition-specific paragraph and PDF-page references below.

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Union of India/appellants on continuation of prosecution

Four appeals allowed; High Court decision set aside; section 482 application dismissed; trial to proceed expeditiously

Procedural challenge to institution of prosecution rejected; criminal merits remain for trial

No finding of guilt, sentence, concluded compounding refusal or general abolition of prosecutorial safeguards. The existence of the alleged understanding is left for proof at trial.

Source: See the proposition-specific paragraph and PDF-page references below.

05 AKHB REVIEW POINT

Do not convert the absence of a statutory right to a compulsory compounding offer into an inability to seek compounding: subsection (2), as construed, permits it before or after proceedings. Nor does an assessed or agreed income figure establish immunity from criminal process. A claimed assurance needs a legal foundation and proof, and this order did not itself resolve disputed trial facts.

The bounded 2011 statutory check confirms the before-or-after structure and then-stated authorities in section 279(2) (physical page 984). Current compounding powers, policy guidelines and procedural law require a separate check. The historical section 482 posture and section 276C allegation must not be converted into a present-law compliance instruction or a conviction.

Source: See the proposition-specific paragraph and PDF-page references below.

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, full four-appeal range and source date

Source url: [Open cited source](#)

Pdf pages: 1

Paragraphs: Reporter identity and unnumbered judicial text

Source role: reported metadata and judicial text

2.

Topic: Three assessment years, post-search returns and grounds accepted below

Source url: [Open cited source](#)

Pdf pages: 2

Paragraphs: Unnumbered judicial text

Source role: judicial text

3.

Topic: Unsupported assurance, trial proof and enabling compounding power

Source url: [Open cited source](#)

Pdf pages: 2; 3

Paragraphs: Unnumbered judicial text

Source role: judicial text

4.

Topic: High Court reversal, dismissed section 482 application and expedited trial

Source url: [Open cited source](#)

Pdf pages: 3

Paragraphs: Unnumbered judicial text

Source role: judicial text

5.

Topic: Bounded historical statutory check

Source url: [Open cited source](#)

Pdf pages: 984

Paragraphs: Section 279(2) and amendment footnote 32 on physical page 984 (printed 1.943), describing compounding before or after institution by the Chief Commissioner or a Director General, with the 1991 substitution history. Other provisions on the page were not independently analysed or relied on.

Source role: historical statutory compilation

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Order of the Court; individual author not stated

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

[Hon'ble Supreme Court source PDF \(reported judgment\)](#)

Identified source rendition: 3 PDF pages; SHA-256

0d8776171c76a34a3346857559fd41151579ed1cd298f745bb846f723d4b11c8. Original bytes preserved.

Complete unnumbered judicial order physical pages 2–3/SCR 357–358, beginning with leave granted. Physical page 1 is reporter headnote, appellate identity and appearances. The prosecutorial allegation of wilful tax evasion is not a finding of guilt; the final order restores the trial.

[Open cited source rendition](#)

The corpus metadata gives one appeal number, but the source identity lists Criminal Appeal Nos. 1087–1090 of 1998. All four are preserved.; The headnote's categorical shorthand about absence of a compromise provision does not replace the judicial explanation: counsel identified none, and the asserted understanding lacked record support; any possible factual understanding was left for the Trial Court.; Wilful tax evasion is the prosecution allegation, not a Supreme Court conviction. Belated returns and higher assessments are not presented as automatic proof of the offence.; The holding is tied to section 279(2); it does not decide the effect of every possible immunity provision, sanction requirement, valid settlement or later compounding guideline.; The Court does not quantify returned income, assessed income, tax evasion or penalty, and does not state a costs award.

STATUTORY SCOPE

No automatic mapping to the Income-tax Act, 2025 or present-law certification. Apply the statutory text for the relevant year.

LATER TREATMENT

Source checked 2026-10-04. Comprehensive subsequent judicial and statutory treatment is not verified. Only section 279(2) and its amendment footnote in the Department-hosted 2011 compilation, physical page 984, were checked. No later judgment, current compounding guideline, later procedural statute or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 3](#)

SHA-256: 0d8776171c76a34a3346857559fd41151579ed1cd298f745bb846f723d4b11c8

[official department hosted historical statutory compilation - PDF pages: 1251](#)

SHA-256: 1ec6e4c38dc1d524d1d40b1fd35d13ac1336c8fc549cef2af1bf723a999c822b

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