

K.C. Builders and Anr. v. The Assistant Commissioner of Income Tax

Criminal Appeal No. 212 of 1998 / Criminal Appeal No. 213 of 1998

[2004] 1 SCR 1134 | 2004-01-28

Whether prosecution founded on alleged concealment could continue after the ITAT conclusively found no concealment on the merits, cancelled the corresponding penalties, and the assessing authority gave effect to that order.

271(1)(c) | 276C (source gives subsection (2) initially and subsection (1) in later complaint description) | 277 | 278B | 279(1) | 254 | 256(1) | 154 | 132 (search history) | 143(3) (assessment history) | 147 and 148 (assessment context)

Two-judge bench | B.N. Agrawal, J. | Dr. AR. Lakshmanan, J.

Assessment years: 1983-84, 1984-85, 1985-86, 1986-87

Final no-concealment finding ended this prosecution; civil-penalty language requires caution

Quashing relief depended on the final merits finding that the concealment underlying this prosecution did not exist, followed by penalty cancellation. It is not universal criminal immunity whenever a penalty is deleted, nor an acquittal after a completed trial. The report varies between section 276C(1) and (2), and its exhibit history is inconsistent; no charge-sheet reconstruction is claimed. The historical civil-penalty mens rea discussion must be read with the bounded later Dharamendra Textile distinction, without claiming wholesale overruling of this prosecution result. Comprehensive later treatment, subsequent implementation and current-law mapping remain unverified.

01 FACTS OF THE CASE

The appellant firm constructed and sold flats. For AYs 1983-84 to 1986-87, it filed revised returns on 4 November 1987 using an approved valuer's construction-cost report; the Department accepted the revised returns but treated the income differences as concealment and levied section 271(1)(c) penalties. CIT(A) upheld the penalties. Four criminal complaints alleged concealment/false returns and related offences. The report's descriptions of the charged subsections differ and are flagged below (physical pages 6–7 and 10–13/SCR 1139–1140, 1143–1146).

By its order of 24 October 1996, the ITAT found no material establishing concealment, treating the assessments as estimates based on the firm's voluntary offer/settlement. It cancelled the penalties. Revenue's reference application was rejected, and the Court treated the ITAT finding as final and conclusive. The assessing authority implemented cancellation on 27 January 1997. The Magistrate and High Court nevertheless permitted the trial to continue, leading to these appeals (pages 7–8 and 13–15/SCR 1140–1141, 1146–1148).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court treated the final finding of no concealment as removing the foundation of the particular prosecution, which rested on the assessing officer's contrary concealment finding. Relying on Uttam Chand and G.L. Didwania as discussed in this judgment, it held that cancellation of the penalties on that ground required the corresponding section 276C prosecution to be quashed. Its reference to an automatic consequence was expressly linked to cancellation because there was no concealment, not to every manner of penalty deletion (pages 15–17/SCR 1148–1150).

The Court rejected the suggestion that the accused must endure the remainder of the trial simply to exhibit the ITAT order as a defence document. The conclusive finding, followed by implementation through penalty cancellation, had already displaced the premise of the complaint. The Court also found that the conspiracy charge had not been established and that the dishonest or fraudulent intention necessary for cheating was absent; its discussion identifies intention at the time of the promise or misrepresentation as material (pages 17 and 20–21/SCR 1150, 1153–1154).

The judgment additionally used mens rea language when discussing concealment and section 271(1)(c) penalty. That accurately describes the 2004 reasoning but must not be republished as an unqualified current civil-penalty standard. The later civil/criminal distinction independently checked for this note is explained in the AKHB Review Point. Nor do general passages about cancelled assessments establish that the firm's accepted revised assessments were themselves annulled: the decisive, specifically reproduced orders concern the no-concealment finding and cancellation of penalties (pages 11–15/SCR 1144–1148).

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

03 JUDICIAL DECISION

The appeals were allowed. The Court held that the impugned refusal to stop proceedings warranted interference and that the prosecution could not survive the final no-concealment finding and resulting penalty cancellation. This is quashing relief against continuation of prosecution, not an acquittal on an appeal from conviction. The report's last sentence records that the appeals stand allowed; the reasoning on physical pages 16–17 supplies the consequence for the prosecution (pages 16–17 and 20–21/SCR 1149–1150, 1153–1154).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee/accused

Appeals allowed; prosecution founded on the final, displaced concealment finding held unsustainable and subject to quashing

Final relief from continued prosecution on this record; not merely a remand to reconsider penalty and not a judgment affirming or reversing a conviction

The decisive cancellation was a conclusive merits finding of no concealment. The case does not establish immunity from every criminal charge whenever a penalty is deleted, or a current universal mens rea requirement for civil tax penalties. Later trial-court implementation not independently verified.

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

05 AKHB REVIEW POINT

Identify precisely what the tax appellate order decided, whether that finding became final, and whether the same alleged conduct is the foundation of the criminal charge. A merits finding that the alleged concealment did not occur is materially different from penalty cancellation on a procedural or technical ground. Likewise, the quoted ITAT assessment of a voluntary offer on this record is not a blanket safe harbour for any surrender of income or revised return.

Bounded later comparison: the three-judge decision in *Union of India v. Dharamendra Textile Processors*, paragraphs 24–27 (physical pages 37–38), distinguishes section 271(1)(c) civil liability from prosecution under section 276C and states that wilful concealment is not an essential ingredient of that civil liability. Paragraph 2 identifies its excise-reference setting. This limited check prevents reuse of *K.C. Builders'* broader mens rea observations as the governing civil-penalty test; it does not establish wholesale overruling of *K.C. Builders'* fact-specific prosecution result or abolish the ingredients of every penalty statute.

Bounded companion comparison: *Prakash Nath Khanna* (physical pages 15–17) allowed a late-return prosecution to continue, leaving wilfulness for trial under section 278E. *K.C. Builders* rests on a final merits finding destroying the allegation supporting this prosecution. Preserve that offence-specific and procedural distinction when using the two decisions together.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity and both criminal appeals

Source url: [Open cited source](#)

Pdf pages: 1; 5

Paragraphs: Cover; jurisdiction; judgment attribution, SCR 1134, 1138

Source role: reported metadata and judicial text

2.

Topic: Revised returns, penalties and procedural history

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: Unnumbered facts, SCR 1139–1141

Source role: judicial text

3.

Topic: Different reported offence descriptions and rival submissions

Source url: [Open cited source](#)

Pdf pages: 7; 9; 10; 12

Paragraphs: Unnumbered complaint history, framed questions and submissions, SCR 1140, 1142–1143, 1145

Source role: judicial text and party submissions with report discrepancy

4.

Topic: Historical mens rea discussion and general assessment/penalty observations

Source url: [Open cited source](#)

Pdf pages: 11; 12

Paragraphs: Unnumbered discussion, SCR 1144–1145

Source role: judicial text

5.

Topic: ITAT's actual final no-concealment finding and implementing order

Source url: [Open cited source](#)

Pdf pages: 13; 14; 15

Paragraphs: Unnumbered discussion and reproduced orders, SCR 1146–1148

Source role: judicial text with embedded tribunal and assessing officer orders

6.

Topic: Prosecution foundation, quashing consequence and rejection of continued trial

Source url: [Open cited source](#)

Pdf pages: 15; 16; 17

Paragraphs: Unnumbered discussion, SCR 1148–1150

Source role: judicial text with attributed precedent discussion

7.

Topic: Attributed High Court and Hira Lal authorities; present IPC findings and final allowance

Source url: [Open cited source](#)

Pdf pages: 17; 18; 19; 20; 21

Paragraphs: Unnumbered discussion and final order, SCR 1150–1154

Source role: judicial text with embedded precedent quotations

8.

Topic: Bounded later comparison: excise-reference context and section 271(1)(c)/276C distinction

Source url: [Open cited source](#)

Pdf pages: 7; 8; 37; 38

Paragraphs: 2; 24–27, SCR 19–20, 49–50

Source role: bounded later judicial comparison

9.

Topic: Bounded companion comparison: late-return default, mental-state issue reserved and appeals dismissed

Source url: [Open cited source](#)

Pdf pages: 15; 16; 17

Paragraphs: Unnumbered discussion and order, SCR 448–450

Source role: bounded companion judicial comparison

OTHER PROVISIONS CONSIDERED

Indian Penal Code, 1860: sections 120B, 34, 193, 196 and 420 (reported complaint history; 120B/420 specifically discussed);
Code of Criminal Procedure, 1973: sections 397 and 401

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Dr. AR. Lakshmanan, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 21 PDF pages; SHA-256

cfb1a0d568129ae066ac5ae5d88d2e370814b7c76bd2124459025e86cad7b5e8. Original bytes preserved.

Entire unnumbered judicial text from the attribution/opening on physical page 5 through page 21 (SCR 1138–1154), including submissions, statutory extract, quoted ITAT and penalty orders, quoted earlier judgments and final allowance, read. Earlier editorial headnote excluded. No adjacent judgment.

[Open cited source rendition](#)

The judicial text is unnumbered and begins at the foot of physical page 5. Headnote subparagraph numbering is not imported into judicial pins. The report lists Criminal Appeals 212–213/1998; acquisition metadata listed only 212/1998.; The cover prints B.N. Agarwal, whereas acquisition metadata gives B.N. Agrawal. The note uses the metadata spelling and records the rendition discrepancy; the two-judge composition and judgment author were visually checked.; Physical page 7 initially lists sections 276C(2), 278B and IPC sections 120B, 34, 193, 196 and 420. Pages 9–10 and 12 refer to section 276C(1), with 277 and 278B in the complaint description. This is a visible report inconsistency, not silently repaired into a single verified charge-sheet inventory.; Page 7 loosely describes the appeals as preferred on 24 October 1996; the complete quoted ITAT order on pages 13–14 bears that date as the decision date. The note uses the signed-order date and does not invent the filing chronology.; Page 8 explains that the ITAT order had not been marked as a defence document; counsel's submission on page 10 refers to it as exhibited. The decisive reasoning on page 17 rejects continued trial for that formality. The note does not select an unverified exhibit number or reconcile the evidentiary history by invention.; The Tribunal's quoted no-concealment finding, the assessing officer's sample penalty-cancellation order and the passages from Uttam Chand, G.L. Didwania, the High Court cases and Hira Lal Hari Lal Bhagwati remain attributed. The last case's Customs/Kar Vivad Samadhan immunity and double-jeopardy discussion is not a fresh statutory immunity granted to K.C. Builders.; General discussion on pages 11–12 of removal of assessment additions does not prove that the accepted revised assessments in this case were annulled. Only the specifically documented no-concealment/penalty outcome is asserted.; Dharamendra Textile paragraph 25 as printed contains references to section 272(1)(c) and section 271(1)(e); paragraph 24 and the surrounding discussion identify section 271(1)(c). These rendition slips were visually checked and are not adopted as separate statutory provisions or silently quoted as accurate text.

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. Bounded later comparison independently checked Dharamendra Textile Processors paragraphs 2 and 24–27; it is a civil/criminal penalty distinction, not a comprehensive treatment audit or a finding of wholesale overruling of this judgment. Prakash Nath Khanna was fully read as a same-year companion judgment, not an identified discussion of K.C. Builders. Comprehensive later judicial/statutory treatment and subsequent implementation remain unverified; no Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

[reported judgment - PDF pages: 21](#)

SHA-256: cfb1a0d568129ae066ac5ae5d88d2e370814b7c76bd2124459025e86cad7b5e8

[reported judgment bounded comparison - PDF pages: 38](#)

SHA-256: dd39c734cf109c6a5ff73b2d0c32f3a914cea6f7ee0e70fdd68a4c36968e38b2

[reported judgment bounded comparison - PDF pages: 17](#)

SHA-256: c441ed87b682244bcc6e558a72585067b34517831f963960d7eb18edfab0a6a0

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