

Prakash Nath Khanna and Anr. v. Commissioner of Income Tax and Anr.

Criminal Appeal No. 1260 of 1997 / Criminal Appeal No. 1261 of 1997

[2004] 2 SCR 434 | 2004-02-16

Whether filing a belated return under historical section 139(4) before assessment erased the section 276CC default in failing to file in due time, and whether the asserted absence of wilfulness required the prosecution to be stopped before trial.

276CC (historical text) | 139(1) | 139(2) (historical notice provision) | 139(4) (historical belated-return provision) | 278E | 271(1)(a) (late-filing penalty history) | 143(3) (assessment history) | 80 (loss-return comparison only)

Two-judge bench | Doraiswamy Raju, J. | Arijit Pasayat, J.

Assessment years: 1988-89

Prosecution may continue; no conviction recorded

The appeals challenged prosecution, and their dismissal left wilfulness for trial under section 278E's statutory presumption and defence. A belated section 139(4) return did not erase the earlier default, but this does not make every late filing an automatic conviction or abolish the statutory proviso. The Rs.1,00,000 punishment bracket, Rs.3,000 safeguard and section 139(2) references are historical. Source docket-count differences are preserved; no eventual trial result is verified. Only the identified Sasi Enterprises and K.C. Builders comparisons were checked; comprehensive later treatment and current-law mapping remain unverified.

01 FACTS OF THE CASE

The appellants were partners of M/s Kailash Nath and Associates. For AY 1988-89, the judgment records a return due on 31 July 1988 but filed on 20 March 1991, followed by a section 143(3) assessment on 26 August 1991. A late-filing penalty under section 271(1)(a) was imposed, and a section 276CC complaint led the Chief Judicial Magistrate, Shimla, to take cognizance and issue process. The Himachal Pradesh High Court dismissed the challenges to those proceedings (physical page 6/SCR 439).

The appellants argued that the section 139(4) return was timely for this purpose, that voluntary filing before discovery of evasion prevented prosecution, and that the managing partner's failure to communicate their profit shares explained the delay. The alleged tax evasion of Rs.5,68,039 and its denial occur in counsel's submissions; they were not findings of guilt or a Supreme Court tax computation (pages 6–8/SCR 439–441).

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

02 DISCUSSION BY THE HON'BLE COURT

The Court held that the historical section 276CC requirement to furnish a return in due time referred to the time under section 139(1) or the relevant section 139(2) notice. Filing later under section 139(4), even before assessment, did not erase the earlier default. Kullu Valley Transport concerned the treatment of a loss return under the 1922 Act; its reasoning could not be extended beyond that purpose to displace the criminal provision's specified time requirement (pages 12–16/SCR 445–449).

The judgment distinguished the conduct attracting section 276CC from its punishment brackets. The historical Rs.1,00,000 figure identified the more severe bracket; it was not a minimum amount below which the section could never operate. The argument that filing before discovery of evasion necessarily barred prosecution was rejected. The separately reproduced proviso contained historical protections, including filing before the assessment year's end and a test under which tax determined on regular assessment, reduced by advance tax and tax deducted at source, did not exceed Rs.3,000; the Court did not replace those protections with a general rule that every late return is prosecutable (pages 8 and 15–16/SCR 441, 448–449).

Wilfulness remained a factual issue for the criminal court. Under section 278E, the culpable mental state was presumptively present, while the accused could establish its absence in defence; subsection (2), reproduced by the Court, required proof beyond reasonable doubt, not merely a preponderance of probability. The High Court therefore rightly did not decide the appellants' factual explanations at this stage. The judgment preserves that defence rather than recording a conviction (pages 16–17/SCR 449–450).

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

03 JUDICIAL DECISION

Both criminal appeals were dismissed. The refusal to stop the pending section 276CC prosecution stood, and absence of culpable mental state remained open to the appellants at trial. The Supreme Court neither convicted nor sentenced them, and this source does not establish the eventual trial outcome (physical page 17/SCR 450).

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

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Revenue, at the pre-trial challenge stage

Appeals dismissed; pending prosecution permitted to continue

Final rejection of the asserted legal immunity from prosecution; factual wilfulness and guilt left for trial

A refusal to stop prosecution, not a conviction, a finding that every late return is wilful, or a ruling abolishing the historical statutory proviso. Eventual trial result not verified.

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

05 AKHB REVIEW POINT

Separate the filing obligation, the offence's mental element, the applicable statutory presumption, and any proviso protecting the accused. A return valid for assessment purposes does not necessarily cure the earlier prosecutable default. Conversely, rejecting that cure argument does not dispense with the criminal court's task of deciding the charge and the permitted defence. The due date, notice provisions, monetary brackets and proviso must be checked against the governing historical text.

Bounded later comparison: Sasi Enterprises v. ACIT, paragraphs 27–31 (physical pages 24–25), expressly drew support from Prakash Nath Khanna, upheld refusal of discharge, explained the accused's section 278E burden, and directed completion of trial. That is further support for prosecution proceeding, not evidence that these appellants were eventually convicted.

Bounded companion comparison: K.C. Builders (physical pages 16–17 and 20–21) concerned a final merits finding that the concealment forming the basis of that prosecution did not exist. Prakash Nath Khanna concerns late filing and unresolved wilfulness. Neither result should be transferred to a different offence merely because both proceedings arise under the Income-tax Act.

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

PROPOSITION-SPECIFIC SOURCE PARAGRAPHS AND PDF PAGES

1.

Topic: Identity, two-appeal jurisdiction and recorded chronology

Source url: [Open cited source](#)

Pdf pages: 1; 5; 6

Paragraphs: Cover; jurisdiction; unnumbered opening and facts, SCR 434, 438–439

Source role: reported metadata and judicial text

2.

Topic: Appellants' submissions and Revenue response

Source url: [Open cited source](#)

Pdf pages: 6; 7; 8

Paragraphs: Unnumbered submissions, SCR 439–441

Source role: party submissions not findings

3.

Topic: Historical offence, punishment brackets and statutory proviso

Source url: [Open cited source](#)

Pdf pages: 8

Paragraphs: Unnumbered section 276CC quotation, SCR 441

Source role: judicial text with historical statutory extract

4.

Topic: Historical section 139 text and Kullu Valley distinction

Source url: [Open cited source](#)

Pdf pages: 9; 10; 11; 12; 13

Paragraphs: Unnumbered statutory extracts and discussion, SCR 442–446

Source role: judicial text with historical statutes and precedent discussion

5.

Topic: Due-time construction and offence versus punishment

Source url: [Open cited source](#)

Pdf pages: 15; 16

Paragraphs: Unnumbered discussion, SCR 448–449

Source role: judicial text

6.

Topic: Statutory mental-state presumption, defence left for trial and dismissal

Source url: [Open cited source](#)

Pdf pages: 16; 17

Paragraphs: Unnumbered final discussion and order, SCR 449–450

Source role: judicial text

7.

Topic: Bounded subsequent comparison: express reliance, refusal of discharge, mental-state burden and trial direction

Source url: [Open cited source](#)

Pdf pages: 24; 25

Paragraphs: 27–31, SCR 198–199

Source role: bounded later judicial comparison

8.

Topic: Bounded companion comparison: final no-concealment finding and termination of the corresponding prosecution

Source url: [Open cited source](#)

Pdf pages: 16; 17; 20; 21

Paragraphs: Unnumbered judicial reasoning and final allowance, SCR 1149–1150, 1153–1154

Source role: bounded companion judicial comparison

JUDICIAL AUTHORSHIP AND SEPARATE OPINIONS

Arijit Pasayat, J.

ACT IDENTIFIED IN THE REVIEWED SOURCE

Income-tax Act, 1961

SOURCE & VERIFICATION

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

Identified source rendition: 17 PDF pages; SHA-256

c441ed87b682244bcc6e558a72585067b34517831f963960d7eb18edfab0a6a0. Original bytes preserved.

Entire unnumbered judicial text on physical pages 6–17 (SCR 439–450), including submissions, all reproduced historical statutory text, discussion of cited authorities and final dismissal, read. Physical pages 1–5 are editorial/report material and jurisdiction; excluded as judicial reasoning. No adjacent judgment.

Open cited source rendition

The judicial text is unnumbered. The numbered propositions on physical pages 3–5 are editorial headnote divisions, not judgment paragraph numbers; all pins below use physical PDF pages and SCR pages.; Physical page 5 identifies two appeals, 1260–1261/1997, and two High Court writ numbers; the opening on page 6 refers to three appellants and three writ petitions. No missing names or party-wise writ allocation is reconstructed.; The due date of 31 July 1988 is recorded as the case fact on page 6; the lengthy historical statutory extract is not silently used to recalculate it or offered as a current filing calendar.; The Rs.5,68,039 evasion allegation, absence of concealment, managing-partner explanation and asserted duplication of interest/penalty/prosecution are submissions. Dismissal does not turn them into adjudicated facts or establish a freestanding ruling on every double-punishment argument.; The report explains replacement of the section 139(2) reference by section 142(1)(i) with effect from 1 April 1989. Neither that change nor the Rs.1,00,000/Rs.3,000 figures is presented as current law.; Sasi Enterprises is separately identified later litigation. Its refusal of discharge and direction to conclude trial do not supply the eventual result in Prakash Nath Khanna.

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. A bounded later comparison independently checked Sasi Enterprises paragraphs 27–31, with surrounding historical discussion on pages 20–25. K.C. Builders was fully read as a same-year companion comparison, not subsequent treatment. Comprehensive later judicial/statutory treatment and the eventual trial outcome remain unverified; no current-law or Income-tax Act, 2025 mapping is certified.

IDENTIFIED SOURCE LINKS

reported judgment - PDF pages: 17

SHA-256: c441ed87b682244bcc6e558a72585067b34517831f963960d7eb18edfab0a6a0

reported judgment bounded comparison - PDF pages: 25

SHA-256: a50b0eabc159059485dacd16465e9112cd05fab51e3b89e8b346d605bd3cbcf5

reported judgment bounded comparison - PDF pages: 21

SHA-256: cfb1a0d568129ae066ac5ae5d88d2e370814b7c76bd2124459025e86cad7b5e8

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