

Vijay Krishnaswami @ Krishnaswami Vijayakumar v. The Deputy Director of Income Tax (Investigation)

Criminal Appeal Nos. 3777-3779 of 2025

2025 INSC 1048; [2025] 8 S.C.R. 2199 | 2025-08-28

Whether continuation of the particular section 276C(1) prosecution, in light of the settlement findings and non-compliance with applicable departmental instructions, constituted an abuse of process.

276C(1) | 245H(1) | 245D(4) | 245-I | 279(1)

Two-judge bench | J.K. Maheshwari, J. | Vijay Bishnoi, J.

Assessment years: 2017-18

01 FACTS OF THE CASE

Following a search and seizure of unaccounted cash, prosecution for AY 2017-18 was sanctioned in June 2018 and the complaint was filed in August 2018. The taxpayer later sought settlement in December 2018. The Settlement Commission's 26 November 2019 order granted immunity from penalty on its findings concerning full disclosure, but did not grant prosecution immunity. The Madras High Court nevertheless declined to quash the criminal case, leading to these appeals.

Source: [reported supreme court judgment / paragraphs 2-5 / PDF pages 5, 6, 7](#)

02 DISCUSSION BY THE HON'BLE COURT

The Court recognised the proviso to section 245H(1): a prosecution instituted before the settlement application is not automatically immunised by the Commission. That saving, however, does not dispense with the prosecution's duty to prove wilful evasion or justify continuation on the actual record. The Court examined the 2008 prosecution circular, the 2009 Manual and the 2019 clarification, holding the applicable directions binding on the departmental authorities. It found that prosecution had been initiated without the required Tribunal-confirmed concealment-penalty findings under the directions in force at sanction. No explanation justified that departure. The later settlement findings and penalty immunity reinforced the conclusion that continuing this prosecution was abusive. The Court also discussed the distinction between an attempt to evade imposition of liability under section 276C(1) and evasion of payment under section 276C(2).

Source: [reported supreme court judgment / paragraphs 12,17-18,20-24,28,31-37 / PDF pages 10, 11, 16, 17, 18, 19, 22, 24, 25, 26, 27, 28](#)

03 JUDICIAL DECISION

The appeals were allowed, the High Court order was set aside and the prosecution was quashed. The Revenue was directed to pay Rs 2,00,000 in costs to the appellant.

Source: [reported supreme court judgment / paragraphs 36-38 / PDF pages 27, 28](#)

04 OUTCOME / IN WHOSE FAVOUR

In whose favour: Assessee/accused

Prosecution quashed; High Court order set aside; Rs 2 lakh costs against Revenue payable to appellant

Quashing justified on the specific prosecution record and applicable binding directions

The Court did not hold that every settlement or grant of penalty immunity automatically bars an earlier prosecution. Current prosecution criteria and later judicial treatment require separate checking.

Source: [reported supreme court judgment / paragraphs 38 / PDF pages 28](#)

05 AKHB REVIEW POINT

Build a dated chronology of sanction, complaint, settlement application and final settlement findings. Test compliance with the departmental instructions actually operative at initiation and distinguish penalty immunity from prosecution immunity. The existence of a statutory saving for an earlier complaint does not itself establish its evidentiary or procedural validity. Avoid turning this fact-specific quashing result into a universal rule against all prosecutions after settlement.

Source: [reported supreme court judgment / paragraphs 17-18,20-24,33-38 / PDF pages 16, 17, 18, 19, 24, 25, 26, 27, 28](#)

SOURCE & VERIFICATION

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

Identified source rendition: 28 PDF pages; SHA-256

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Reported PDF pp. 1-4 are editorial material; judicial text is pp. 5-28, paragraphs 1-38. Bench and appeal range were checked on the reported title page.

Paragraph 32 refers to a penalty under section 276C(1), whereas the reproduced 2008 circular at paragraph 20 refers to section 271(1)(c). The note does not repeat that internal misdescription as an independent statutory proposition.

Historical monetary thresholds and circular criteria are not certified as current compliance rules.

The first proviso to section 245H(1) and the Commission's refusal of prosecution immunity are expressly preserved. Relief comes from Supreme Court quashing.

Original API URL is additional; evidence pinpoints use the reported PDF. The reported hash and page numbers must not be applied to the differently paginated official original.

The prosecution concerned AY 2017-18. AY 2016-17 appears in the taxpayer's explanation of the seized cash and must not be substituted for the prosecution year.

STATUTORY SCOPE

Historical legal regime as considered in the source judgment; no comprehensive later-law/circular or 2025 Act equivalence check.

LATER TREATMENT

Source checked 2026-10-04. Subsequent appeals, review proceedings, stays, reversals and later judicial treatment have not been comprehensively checked. This note is not a citator status certificate.

IDENTIFIED SOURCE LINKS

[reported supreme court judgment - PDF pages: 28](#)

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