

**Mohini Bhutani Vs. State**

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**SooperKanoon Citation :** [sooperkanoon.com/710596](http://sooperkanoon.com/710596)

**Court :** Delhi

**Decided On :** Jan-04-2002

**Reported in :** [2002]123TAXMAN189(Delhi)

**Appeal No. :** Crl. Misc. (Main) Nos. 91 to 93 & 97 of 1990 4 January 2002

**Appellant :** Mohini Bhutani

**Respondent :** State

**Advocate for Pet/Ap. :** H.L. Tiku and;Deepak Dhingra for the Petitione; U.L. Watwani,;

**Judgement :**

These petitions are directed against the order of the learned A.C.M.M. dated 16-10-1989 in case Nos. 1271-4/1, whereby the learned Judge was pleased to frame charge under section 276CC of the Income Tax Act, 1961 (hereinafter referred to as 'the Act') against accused Nos. 1 and 2 while discharging accused No. 3.

2. The learned counsel for the petitioners submits that even though notice under section 148 of the Act had been served upon the petitioners for the assessment years 1982-83 to 1985-86, yet the petitioners were covered by the 'Amnesty Scheme' under which returns were filed on 31-3-1987. He draws my attention to Instruction No. 1720, dated 29-7-1986 wherein it is stated that even though the notices under section 139(2) or 148 have been issued, yet the assessed would be entitled to the benefit of the 'Amnesty Scheme'.

Furthermore, the learned counsel for the petitioners points out order dated 28-6-1995 of the Commissioner, wherein the Commissioner has held that :

'Even if a notice under section 139(2) or 148 had been issued, the appellant was still entitled to the benefits of the scheme in view of the Instruction No. 1720. It is also seen that the prosecution proceedings launched against the assessed are pending in the Judicial court for final decision. The appellant had delayed the filing of the return. It was claimed that the return was filed under the Amnesty Scheme. It is for the judicial court to decide whether the return was really filed under the Amnesty Scheme. therefore, the matter is sub judice and I do not consider it proper to give any opinion on this issue.'

3. Having gone through the material on record and, in particular, Instruction No. 1720, dated 29-7-1996, I am of the view that benefits of the 'Amnesty Scheme', under which the petitioners have filed their returns, should be given to the petitioners. Even though notice under section 148 was issued to the assesseds/petitioners prior to the 'Amnesty Scheme', the Instruction mentioned above gives them the benefit thereof. therefore, no prosecution could be launched in the present case.

In view of the above, orders dated 16-10-1989 in case No. 1271-4/1 are quashed.

4. Crl. Misc. (Main) Nos. 91 to 93 and 97 of 1990 are allowed.

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