

R. Mathivanan Vs. Assistant Commissioner of Income-tax

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Court : Chennai

Decided On : Mar-21-1995

Reported in : [1996]220ITR351(Mad)

Judge : C. Shivappa, J.

Acts : [Income tax Act, 1961](#) - Sections 276(C) and (C(1)) and 277

Appeal No. : Criminal Original Petitions Nos. 11615, 11732 to 11745 of 1993 and Criminal Miscellaneous Petitions

Appellant : R. Mathivanan;r. Mathialagan;r. Mathiarasan

Respondent : Assistant Commissioner of Income-tax;assistant Commissioner of Income-tax;assistant Commissioner of

Advocate for Def. : Ramaswamy K., Special Public Prosecutor

Advocate for Pet/Ap. : M. Sathyanarayanan, Adv.

Judgement :

Shivappa, J.

1. The petitioners in these petitions are seeking for quashing of the proceedings launched against them under sections 276C(1)(i) and 277 of the Income-tax Act, 1961, on the ground that they had attempted to evade the tax and also made false

verification in the return filed for the assessment years.

2. The contentions are that there was no proposal from the assessing authority for according sanction for prosecution by the Commissioner and even if there is a sanction, the same is not in accordance with law and there is no application of mind.

3. This court in V. Gopal v. Asst. CIT : [1994]207ITR971(Mad) has held that sanction by the Commissioner must be only on a proposal submitted to him is not tenable. It has been further held that there is no requirement that such a sanction can be given only on the initiation of proposal by some other agency. Therefore, there is no merit in the contention urged by learned counsel for the petitioners.

4. The order of sanction is a matter to be looked into during trial, and it can be proved at that time like any other evidence and the petitioners can raise such contention touching sanction at the appropriate stage. There is no ground to quash the proceedings in all these petitions. Petitions are dismissed.

5. In view of the above order, Criminal Miscellaneous Petitions Nos. 7363, 7364, 7462, 7463, 7464, 7465, 7466, 7467, 7468, 7469, 7470, 7471, 7472, 7473, 7474, 7475, 7476, 7477, 7478, 7479, 7480, 7481, 7482, 7483, 7484, 7486, 7487, 7488 and 7489 of 1993 are also dismissed as unnecessary.

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