

(1987) 03 P&H CK 0012

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Income Tax OFFICER

APPELLANT

Vs

JAGDISH RAM MANAK CHAND
AND OTHERS.

RESPONDENT

Date of Decision: March 6, 1987

Acts Referred:

- Income Tax Act, 1961 - Section 276C, 277

Citation: (1987) 65 CTR 24 : (1987) 167 ITR 8 : (1987) 34 TAXMAN 296

Hon'ble Judges: I. S. Tiwana, J

Bench: Division Bench

Judgement

I. S. TIWANA J. - In a complaint filed by the Income Tax Officer, Special Circle III, Jalandhar, against the respondents under sections 276C and 277 of the Income Tax Act, 1961, for having filed the return for the assessment year 1979-80, on the basis of a wrong or false statement of accounts with a view to evade tax, the respondents have been concurrently discharged by the lower courts for the reason that : "It has not been proved that the return of the statement of accounts filed by the accused was false." The complainant has filed this petition to impugn these orders.

Having heard learned counsel for the parties, I find that the above noted conclusion of the courts below is wholly untenable particularly when the stage of the case is kept in view, i.e., the stage of framing the charge. Before advertng to facts, I deem it proper to state here the principle or the consideration which the court has to keep in view at this stage of the case. According to their Lordships of the Supreme Court : "Even a very strong suspicion founded upon materials before the Magistrate, which leads him to form a presumptive opinion as to the existence of the factual ingredients constituting the offence alleged, may justify the framing of a charge against the accused in respect of the commission of that offence." (See [Supdt. and Remembrancer of Legal Affairs, West Bengal Vs. Anil Kumar Bhunja and Others,](#))

Without going into details, I form the opinion that in the instant case, the statements (exhibits P-1 to P-3) of at least one of the accused, namely, Manak Chand Jain, were good enough to frame a charge against him/them in view of the above-noted principle of law laid down by the final court. Material part of the statement (exhibit P-1) reads that the sales reflected in the udhar basis were not reflected in the regular books of accounts. This admission, to my mind, was enough for framing a charge against this accused, who, concededly, had filed the Income Tax returns. In the light of this conclusion of mine, I do not feel the necessity of advertng to the other evidence on record. At this stage, Shri Mehta, learned counsel appearing for the respondent-accused, contends, rather vehemently, that on the basis of the above-noted statement, the respondents other than Manak Chand Jain and the firm could not possibly be charged for the offences alleged against them. No such point appears to have been urged before the lower courts and, therefore, the said courts have not adverted to the same.

In the light of the above discussion, I set aside the impugned orders and send the case back to the trial court for proceeding in the matter afresh in accordance with law. For claritys sake, it is mentioned here that it would be open to the respondent-accused to argue before the said court if any case is made out or not against the persons other than Manak Chand Jain.

The parties through their counsel are directed to appear before the said court on April 10,1987.