

SUPREME COURT OF INDIA

Union of India

Vs.

Mamta Sethi

(K.T. Thomas and R.P.Sethi JJ.)

11.08.2000

ORDER

1. Delay condoned.

2. Leave granted.

3. The respondents were convicted under Sections 276C and 277 of the Income-tax Act, 1961, but they were released under the Probation of Offenders Act. The appellant-Union challenged the said order before the High Court in a criminal appeal. But a learned single judge of the High Court dismissed the appeal with one sentence "I find no reason to interfere with the order of the trial court, hence, dismissed".

4. The contention of the appellant-Union is that the trial court as well as the High Court missed to notice Section 292A of the Income-tax Act contemning an express bar against the invocation of the provisions of the Probation of Offenders Act in respect of the offence enumerated in the Income-tax Act. Prima facie, the said interdict is insurmountable but learned counsel for the respondents contended that they are able to convince the High Court that they are not liable to conviction at all under Section 276C or 277 of the Income-tax Act. It is open to the respondents to canvass for the said position in the appeal which the Union filed against them. Without prejudice to their right in raising such contention we set aside the impugned order and send the criminal appeal back to the High Court for disposal afresh according to law. This appeal is disposed of accordingly.