

## Non-filing of ITR can lead to prosecution

Taxpayers are now witnessing a new era where economic offenses are no more taken with an attitude of "Letting things be". Tax Professionals should also change accordingly and ensure that tax compliances are in order. We have heard many cases under GST and Customs where prosecution proceedings have been initiated for suspected evasion of tax/duty. Now the Income Tax Authorities have also got into the Act by invoking Section 276C of The Income Tax Act. Even when an assessee

failed to file its Return in time and to pay the tax due before the due date of filing the return of income, prosecution u/s 276CC and 276C (1) of the Income Tax Act was launched.

Section 278E gives a presumption to lay prosecution in case of non-filing of Return within the time limit and suppression of income in the Return filed, is with malafide intention to evade Tax. Hence, the Court held that it cannot by exercising its power under Section 482 of C.D.C., quash the proceedings presuming the contrary. Let's first understand Section 276CC, before moving further –

### **Failure to furnish returns of income:**

**276CC.** If a person wilfully fails to furnish in due time the return of fringe benefits which he is required to furnish under sub-section (1) of section 115WD or by notice given under sub-section (2) of the said section or section 115WH or the return of income which he is required to furnish under subsection (1) of section 139 or by notice given under clause (i) of sub-section (1) of section 142] or section 148 or section 153A, he shall be punishable,-

(i) in a case where the amount of tax, which would have been evaded if the failure had not been discovered, exceeds twenty-five hundred thousand rupees, with rigorous imprisonment for a term which shall not be less than six months, but which may extend to seven years and with fine;

(ii) in any other case, with imprisonment for a term which shall not be less than three months, but which may extend to two years and with fine:

**Provided** that a person shall not be proceeded against under this section for failure to furnish in due time the return of fringe benefits under sub-section (1) of section 115WD or return of income under sub-section (1) of section 139-

(i) for any assessment year commencing prior to the 1st day of April, 1975; or

(ii) for any assessment year commencing on or after the 1st day of April 1975, if

1. the return is furnished by him before the expiry of the assessment year, or a return is furnished by him under sub-section (8A) of section 139 within the time provided in that sub-section; or

2. the tax payable by such person, not being a company, on the total income determined on regular assessment, as reduced by the advance tax or self-assessment tax, if any, paid before the expiry of the assessment year, and any tax deducted or collected at source, does not exceed ten thousand rupees.]