



## A Session court of Mumbai upheld the conviction of the assessee for non-filing of the Income-tax return as the assessee was unable to prove himself innocent.

Hema Chetan Shah [TS-59-DC-2023(Mum)]

Mumbai, February 14, 2023

In the present case, a search and seizure had been conducted upon the assessee and the assessee has given a notice under Section 153A of the income tax act 1961 in short, the Act, to file the return of income for the relevant assessment year. The assessee neglected to do the same.

Subsequently, the Revenue issued a show cause notice to the assessee asking for an explanation as to why the prosecution under Section 276CC (*Punishment for non-filing the Income-tax Return Intentionally*), should not be initiated, which was also not responded to by the Assessee.

Due to the Assessee's wilful failure to provide the return of income, the Revenue initiated proceedings under Section 276CC read with Section 278E (*presumption as regards the guilt of the assessee unless he proved himself innocent*), and the Trial Court found the assessee guilty.

**On an appeal, the Session court in the present matter held that: -**

- *After giving sufficient opportunities the assessee still failed to comply with the notice which shows the malafide intentions of the assessee hence the court upheld the punishment of the trial court*

*\*Section 153A has provided the process of determining the income of the individual who has been subject to search under the Act.*

